

**JOINT REGIONAL PLANNING PANEL
(Southern)**

JRPP No	2015STH010 DA
DA Number	41/2015
Local Government Area	Shellharbour City Council
Proposed Development	Staged Multi Dwelling Housing and Subdivision. Development comprising of 27 Dwelling comprising detached, semi-detached, attached and two (2) secondary dwellings. Subdivision to include Torrens and Community Title
Street Address	LOT: 1725 DP: 1196559, Shallows Road, Shell Cove
Applicant/Owner	Applicant – Australand Corporation (NSW) Pty Ltd Owner - Shellharbour City Council
Number of Submissions	Nil
Regional Development Criteria (Schedule 4A of the Act)	Referred to the Panel as Council is the owner of the land and the capital investment value of proposed development is over \$5 million.
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • State Environmental Planning Policy No 55 – Remediation of Land • State Environmental Planning Policy (State and Regional development) 2011 • State Environmental Planning Policy 71 – Coastal Protection • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • Shellharbour Local Environmental Plan 2013 • Shellharbour Development Control Plan 2013 • Shellharbour City Council Section 94 Contributions Plan
List all documents submitted with this report for the panel's consideration	Architectural Plans
Recommendation	Approve, subject to condition
Report by	Jasmina Micevski Senior Development Assessment Officer
Approved by	Anthony Randall Team Leader - Planning

Assessment Report and Recommendation Cover Sheet

Assessment Report and Recommendation

1. PURPOSE OF REPORT

The purpose of this report is to seek a determination from the Joint Regional Planning Panel (the Panel) of a development application (DA) for multi-dwelling housing and subdivision.

Pursuant to State Environmental Planning Policy (State and Regional development) 2011, clause 20 the provisions of *Schedule 4A Development for which regional panels may be authorised to exercise consent authority functions of councils*, of the *Environmental Planning and Assessment Act 1979* (the Act), confers that the Panel is the determining authority for this DA as the development has a capital investment value of \$7,531,500.00.

Pursuant to Clause 4 of Schedule 4A, the Panel is the determining authority for Council related development over \$5Million. In this case Council owns the land which the application relates.

2. SUMMARY OF RECOMMENDATION

It is recommended that the Panel approve the DA No. 41/2015 for multi-dwelling housing and subdivision at Lot 1725 DP 1196559, Shallows Road, Shell Cove, subject to the conditions contained within this report.

3. THE SITE

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.

The land is described as Lot 1725 DP 1196559.

The superlot was created as part of a previous subdivision DA that comprised parks, 71 residential lots and 4 super lots. The DA was considered and approved by the Panel at its meeting of 3 February 2011.

Subsequent to this DA, consent was granted for minor realignment works and created Lot 1725, which is now the subject of this application and referred to as Stage 10D6.

The site has an approximate area of 9,172.4sqm and is a regular shaped parcel that is accessed via Cowries Avenue, Shell Cove. The site also fronts the proposed Harbour Boulevarde.

The site is located at the fringe of the older and more traditional estate of Shell Cove as well as to the developing boat harbour precinct.

A plan illustrating the location of the development is below.



4. BACKGROUND

The opportunity to develop the site as multi dwelling housing is underpinned by the Shell Cove Master Plan.

A pre-lodgment meeting was held with the applicant Australand and Council assessment staff prior to the submission of the DA. The key considerations from that meeting include:

- a. *length of private roads with respect to garbage collection and servicing,*
- b. *issues relating to the hybrid of the integrated housing provisions contained in the former Infill DCP and multi dwelling housing. The provisions in the Shellharbour Development Control Plan 2013 (DCP) are not a neat fit requiring specific attention within the documentation to be lodged as part of the subject site,*
- c. *importance of urban design given its proximity to boat harbor, and*
- d. *the importance of visitor parking.*

5. THE PROPOSAL

The proposed development seeks to construct 27 dwellings in a two staged sequence. The development will comprise a mixture of detached, semi-detached, attached dwellings and two (2) secondary dwellings. The staging consists of the following:

- a. Stage 1 - Torrens Title subdivision of Lot 1725 to construct 9 dwellings with subdivision and 1 residue lot for subsequent community title development and the internal car court.
- b. Stage 2 - Community Title subdivision of the residue lot in Stage 1 to construct 18 dwellings

and two (2) secondary dwellings with subdivision including one lot for the internal access driveway.

A copy of the development plans is provided as Attachment 1. A full set of the development plans have been provided to the JRPP Panel separate to the report.

6. NOTIFICATION

The DA was publicly notified for a period of 21 days between 19 February 2015 and 11 March 2015.

Two submissions were received and are discussed below.

7. PLANNING CONTROLS

The following are relevant planning controls that have been considered in the assessment of this DA:

- State Environmental Planning Policy No 55 – Remediation of Land
- State Environmental Planning Policy 71 – Coastal Protection
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Shellharbour Local Environmental Plan 2013
- Shellharbour Development Control Plan 2013
- Shellharbour City Council Section 94 Contributions Plan 2013.

8. ASSESSMENT

This application has been assessed in accordance with Section 79C of the Act.

The following comments are made with respect to the proposal:

8.1. (1)(a)(i) The provisions of any Environmental Planning Instrument

8.1.1 State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55)

The contamination assessment prepared in support of the proposal has been satisfactorily completed in accordance with relevant industry guidelines. The report provides the following recommendations:

- a. *a confirmatory visual site inspection (and confirmatory sampling, if required) of the surface ground conditions below the earthworks storage area once the storage area has been removed to inspect for signs of potential contamination;*
- b. *asbestos delineation investigation and subsequent appropriate remediation and validation as outlined in Section 13; and*
- c. *as a matter of due diligence it is recommended that an unexpected finds protocol be included as part of the site management plan during earthworks detailing the process by which any unexpected finds of potential environmental concern will be managed.*

A Validation Assessment report was produced and submitted to Council. The report notes the following:

- a. *Following the appropriate removal of ACM impacted filling, based on the visual inspection and results of the validation laboratory analysis, the area of the site formerly beneath the ACM impacted filling is considered suitable for the intended residential use from a contamination perspective and no further works are required.*
- b. *The validation of the area beneath the ACM impacted filling constitutes the final outstanding recommendation of DP (2014a) to render the site compatible with its proposed residential development.*
- c. *It is noted that as a matter of due diligence it is recommended that an unexpected finds protocol be included as part of the site management plan during earthworks detailing the process by which any unexpected finds of potential environmental concern will be managed, as per the recommendations in DP (2014a).*

Based on the above the development satisfies the objectives of SEPP 55 and subject to conditions being imposed to ensure all works cease in the event of unexpected findings during development phase.

8.1.2 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX Certificate has been issued for the development and relevant conditions requiring the fulfilment of commitments will form part of the development consent, and in this regard the aims of the Policy have been satisfied.

8.1.3 State Environmental Planning Policy 71 – Coastal Protection (SEPP 71)

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 71 is a means of implementing the State's *Coastal Policy*.

The proposed development is not considered inconsistent with the aims of the SEPP 71 as the heads of consideration listed in clause 8 and part 4 are satisfied by the development or have no relevance to the subject site. This consideration is expanded at Section 8.1.4.6 of this report below.

8.1.4 State Environmental Planning Policy (Infrastructure) 2007

An electrical easement containing overhead wiring currently runs across the southern extent of the site. It is proposed to relocate the power lines underground and within a public reserve adjoining the site.

As required by clause 45 Determination of Development Applications - other development; of the above Policy, a referral was required to Endeavor Energy.

Based on the advice received from Endeavor Energy, conditions are recommended to prohibit the commencement of any works until such time that the power lines have been removed.

Additional conditions have also been recommended which requires the easement to be extinguished prior to the release of any Subdivision Certificate being issued.

A copy of the correspondence received from Endeavor Energy has been provided for the Panels information.

8.1.5 Shellharbour Local Environmental Plan 2013 (SLEP 2013)

8.1.5.1 Zoning / Permissibility

The SLEP 2013 zones the site as R2 – Low Density Residential. The objectives of that zone are as follows:

- *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 proposal is not inconsistent with the objectives of the zone in that it will provide a housing need for the community in a predominantly low density environment.

Development Characterisation

a. The development contains 29 dwellings which comprises the following mix of residential uses:

- 5 Dwelling Houses,
- 7 Semi-Detached Dwellings,
- 7 Attached Dwellings,
- 2 Secondary Dwellings.

SLEP 2013 provides the following definitions to each of these land uses/development types. They include:

Dwelling House:	<i>means a building containing only one dwelling.</i>
Semi-Detached Dwellings:	<i>means a dwelling that is on its own lot of land and is attached to only one other dwelling.</i>
Attached Dwellings:	<i>means a building containing 3 or more dwellings, where:</i> <ul style="list-style-type: none"><i>a. each dwelling is attached to another dwelling by a common wall, and</i><i>b. each of the dwellings is on its own lot of land, and</i><i>c. none of the dwellings is located above any part of another dwelling.</i>
Secondary Dwellings:	<i>means a self-contained dwelling that:</i> <ul style="list-style-type: none"><i>a. is established in conjunction with another dwelling (the principal dwelling), and</i><i>b. is on the same lot of land as the principal dwelling, and</i><i>c. is located within, or is attached to, or is separate from, the principal dwelling.</i>

The R2 zone permits, with consent, a range of residential uses, including dwelling houses, semi-detached dwellings and attached dwellings and secondary dwellings.

b. The development also seeks to subdivide land.

By virtue of clause 2.6 of SLEP 2013, subdivision is permitted with consent.

8.1.5.2 Clause 4.1 Minimum subdivision lot size

Under this clause the minimum lot size is 450sqm. By virtue of clause 4.1(4), this clause is applicable only to the Torrens title lots.

The proposed development consists of 9 Torrens title lots which range between 227.17sqm and 380.17sqm.

These lot sizes are permitted as a result of clause 4.1B(3) which states:

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.*

Compliance with this clause is satisfied as the development seeks to construct the dwellings on the Torrens Title lots which are less than the 450sqm, but not less than 200sqm in area.

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

The minimum lot size is 600sqm. The parent lot is 9,172.4sqm and therefore complies with this clause.

8.1.5.4 Clause 4.3 Building Height

The SLEP 2013 provides a building height control of 9m for the subject site.

The development complies with height controls.

8.1.5.5 Clause 4.4 Floor Space Ratio

Clause 4.4 of the SLEP 2013 provides a maximum floor space ratio (FSR) of 0.5:1 for the site. The proposed development has an overall Gross Floor Area of 4,493.4sqm with a total site area of 9,172.4sqm. This equates to an FSR of 0.48:1, which complies with the SLEP 2013 development standard.

8.1.5.6 Clause 5.5 Development within Coastal Zones

Clause 5.5 of the LEP details the provisions for assessing development's within the coastal zone. The requirements of this clause mirror those within SEPP 71. The proposal is consistent with the provisions of SEPP 71 and therefore complies with Clause 5.5 of SLEP 2013 because:

- a. the proposal does not adversely affect public access to the foreshore,
- b. the proposal is suitable in its relationship with the surrounding area, and does not adversely impact the natural scenic quality due to the site proximity to the foreshore, and the low rise bulk, scale and character of the design,
- c. the proposal does not overshadow the foreshore and does not cause an unreasonable loss of views from any public place to the foreshore,
- d. the proposal does not cause any unreasonable impact on the visual amenity and sea view

qualities of the coast,

- e. bio-diversity and ecosystems are not affected by the proposal,
- f. the proposal is acceptable having regard to the cumulative impact of the proposal in combination with other development on the coastal catchment,
- g. the development proposal is sited in a manner that ensures it is not significantly affected by coastal hazards, such as foreshore erosion, or by the sea level rise, does not unreasonably impact on coastal hazards, or increase the risk of coastal hazards in relation to any other land.

8.1.5.7 Clause 6.2 Earthworks

The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

The proposed development involves some earthworks to create the required levels for the dwelling houses. Impacts to surrounding developments are minor in nature and will not detrimentally impact environmental functions and process.

Therefore the proposal is consistent with the objective of Clause 6.2 and the matters for consideration.

8.1.5.8 Clause 6.4 Stormwater Management

The proposal is consistent with the objective of the Clause and satisfies the matters listed in sub-clause 3. The application was referred to Council's Development and Subdivision Engineer and conditions have been recommended to ensure the stormwater management system is in accordance with Council's policies.

8.1.4.10 Clause 6.9 Essential services

The development site is able to be serviced by the essential services.

8.2. (1)(a)(ii) The provisions of any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority

There are no instruments applicable to this proposed modification.

8.3 (1)(a)(iii) The provisions of any Development Control Plan (DCP)

8.3.1 Chapter 3 Residential Development

A review of the controls concludes that the development does not comply with the following controls:

Section	Summary of Non-Compliant Controls	Comment
3.2 Building Lines and Boundary setbacks	<p><u>Dwellings fronting Cowries Avenue</u></p> <p>The control requires two storey components to be setback 6m and provides an allowable encroachment of 1m for structures such as balcony's.</p> <p><i>Non-compliance</i></p> <p>The second storey is setback more than 6m however the balcony encroaches into the primary building line by a maximum of 2m.</p> <p>Therefore the setback to the front boundary from the balcony is 4m.</p> <p><u>Community Title Dwellings</u></p> <p>The primary boundary of these lots will be from Harbour Boulevarde. The setback controls for primary boundary are as follows:</p> <ul style="list-style-type: none"> - Single storey 4.5m - Two storey 6m - Allowable encroachment into the primary building lines for both single and two storey's is 1m. <p><i>Non-compliance</i></p> <p>The single storey is setback 4m.</p> <p>The two storey components are setback at 4m with a 1m encroachment for the second storey balcony.</p>	<p><u>Torrens Title Dwellings</u></p> <p>The non-compliance is 1m. This variation is considered acceptable as the balcony provides an architectural relief to reduce the dominance of the garage while providing a design feature to the front façade.</p> <p><u>Community Title Dwellings</u></p> <p>The reduction in front setbacks along Harbour Boulevarde is considered acceptable.</p> <p>The setbacks aim to respond to the future built form and proposed setbacks within the boat harbour precinct which will be directly across from the development site.</p> <p>The controls within the boat harbor precinct are consistent with the setbacks proposed within this development.</p> <p>These built form outcomes are consistent with a DA previously approved by the Panel (2014STH001).</p>
3.3 Streetscape and design for dwellings	<p>The control states: <i>must have garage doors with a width not exceeding more than 50% of the overall width of the side of the dwelling that contains the garage doors.</i></p> <p><i>Non-compliance</i></p> <p>The Torrens Title dwellings will have garage door widths that exceed 50%.</p>	<p>Satisfactory. The visual dominance of the garage doors has been reduced by providing a balcony that overhangs the door. This provides an architectural relief to the front façade, and casts a shadow over the doors to offset their length in the streetscape.</p>
3.6 Fences	<p>The control states: a. <i>Fences in front of the primary</i></p>	

	<p>(front) and secondary (corner lots) building lines should be no higher than 1.2 metres.</p> <p>b. Fences on the side and rear boundary should be no higher than 1.8 metres.</p>	<p>The overall height of fencing along Harbour Boulevard varies from 1.8m to 2.1m.</p> <p>The proposed heights are attributed to both the topography of the land and also aiming to provide visual and acoustic privacy to the future occupants.</p> <p>As shown on the development plans within Attachment 1, the fence is made up of brick and horizontal timber slates. Visual relief is achieved by the difference in heights and a gate that allows access to each of the dwellings.</p>
3.14 Adaptable housing	<p>The control states:</p> <p><i>Developers of all residential developments including combined subdivision/dwellings, boarding houses, hostels should consider applying the essential and desirable features identified in AS4299-1995 Adaptable Housing; to developments involving 4 or more dwellings.</i></p>	<p>This advisory note is provided within the DCP and is not a legislative requirement. This proposal includes no adaptable housing.</p>

3.3.2 Chapter 4 – Subdivision – Infill and Greenfield

This chapter relates only to those lots proposed to be subdivided into Torrens title allotments. The following controls apply to the development:

- a. each lot created has direct full frontage to a public road,
- b. the lot to be subdivided has a cross slope of 5% or less (due to the visual effect of excessive cut and fill on small sites - should be evident from assessment of building design), and
- c. a development application for subdivision must accompany or be part of the development application for the construction of the dwellings.

The proposed lots comply with the above requirements.

8.3.3 Chapter 13 Parking, Traffic and Transport

The following parking provision is required:

- 1.5 spaces per dwelling with two or more bedrooms
- 0.5 visitor spaces per dwelling with two or more dwellings

The proposal provides double garages for each dwelling and therefore complies with the occupant rates.

For visitor's spaces, the 18 community title dwellings would need 9 spaces in total. The development is compliant with this requirement and the spaces are equally distributed throughout the site.

The torrens title lots include dwellings with adequate space for visitor parking on the driveways that service each respective double garage.

Consequently, the level of visitor parking on site is compliant.

In addition, Chapter 13 states that double garages are to have the following minimum dimensions:

- a. 5.5m length x 5.8m width, and
- b. 4.8m wide opening with an access aisle of 7m. For each reduction of 0.4m in aisle width, there must be a 0.1m increase in width.

The dwellings on the Torrens title lots fronting Cowries Avenue contain front loaded double garages. Each of these garages meet the 5.5m length requirement. However, 8 of the 9 dwellings (CN1802-CN1803, CN1805-CN1807 and CN1809-CN1811) do not meet the width requirements, with proposed widths ranging from 5.4m to 5.7m.

The non-compliance is not more than 6% of the required width and complies with the AS2890.1. This width does not compromise the reasonable function of the garages, and is considered acceptable.

All rear-loading double garages for the Harbour Boulevard dwellings that gain access from the internal driveway comply with the 5.5m length requirement, and are 5.77m in width. This very minor variation will not result in the loss of a parking space. Importantly, the width complies with AS2890.1 car parking standards.

The internal access driveway is 6m in width, requiring a 5.05m wide garage door opening to meet the DCP control. All garage door widths meet this requirement, ensuring vehicles can safely and efficiently access and egress the garage in a single turning manoeuvre.

8.3.4 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. The community lot dwellings will need to present the bins along various sections of Cowries Road. The aim here is to minimise the proliferation of bins along the streetscape. Development consent conditions have been imposed to specify which road each dwelling within the Community title is to present on.

8.3.5 Chapter 17 Crime Prevention through Environmental Design

The development satisfies the objectives set out in this chapter. Most notably the dwellings fronting Cowries Avenue have been orientated to allow surveillance into the internal road at the rear. This has been achieved by locating the principal private open space areas of these dwellings to the rear which is adjacent to the internal roadway.

8.3.6 Chapter 20 Landscaping

The development satisfies the objectives and development provisions set out in this chapter. The application was assessed by Councils Landscape Officer and appropriate landscaping conditions have been included as part of the draft conditions following this report.

8.3.7 Chapter 25 Storm water Management

The development satisfies the objectives and development provisions set out in this chapter. The application was assessed by Councils Development Engineer and the appropriate conditions have been included as part of recommended draft conditions in this report.

8.3.8 Chapter 31 Acoustic Protection

An acoustic report was produced for the DA. Acoustic attenuation measures have been recommended as part of the development consent conditions following this report.

8.3.9 Shellharbour City Council Section 94 Contributions Plan 2013

The site is subject to contributions under Councils Section 94 Contributions Plan. The required contributions have been included as part of the recommended conditions in this report.

The development seeks to construct 2 secondary dwellings. Under 2.4.3 of the Contributions Plans, secondary dwellings are exempt from being levied.

8.4 (1)(a)(iii) The provisions of any Planning Agreement

There are no planning agreements applicable to this site or development.

8.5 (1)(a)(iv) The provisions of the Regulations

The *Environmental Planning & Assessment Regulation 2000* prescribes certain development consent conditions that form part of the development consent conditions imposed. This includes compliance with the Building Code of Australia.

8.6 (1)(b) The likely impacts of the development

Various impacts on the proposed development have been discussed throughout this report. Other impacts include:

8.6.1 Streetscape

From a design perspective, no two adjoining dwellings share the same façade treatments. This can be seen in the below figure.

COWRIES AVENUE STREETSCAPES



CN1801-CN1804 Streetscape



CN1805-CN1807 Streetscape



CN1808-CN1811 Streetscape

Careful considerations were made during the assessment regarding some dwellings having garages designed with their access from the rear to reduce the visual dominance of the garage doors in the Cowries Avenue streetscape. However, on balance the streetscape benefits were not deemed to outweigh the dis-benefits that would arise to:

- a. loss of visitor parking for the community title lots due to new driveways being required,
- b. increase use of the internal road way,
- c. reallocating the principal private open space areas of those dwellings to the southern side, and
- d. removing the availability of onsite parking in an area of high car dependency

Tandem parking could be considered however this would require a reduced front setback to achieve the internal length within the garage, and therefore good architectural design has been employed to mitigate the appearance of garages in the streetscape as mentioned in Section 8.3.1 of this report.

Furthermore, to further reduce the visual impact of the driveway, conditions have been recommended to require the driveways at the crossover to be reduced to 3.5m (from 4m) for each dwelling which will then reduce the hard surface area for the dwellings facing Shallows Road.

Overall, the impact from changing the dwellings to rear loaders to achieve a different streetscape along Cowries Avenue would only minimize the level of amenity to the future residents.

The streetscape of the development will be consistent with the emerging character as the site transitions into the marina precinct. The combination of increased setbacks and incorporation of different building design elements will not negatively impact on the streetscape.

8.6.2 Impacts during Construction

Given the size of the development, temporary impacts resulting from construction noise, dust and traffic are likely to bring inconveniences to the surrounding area.

The developer has committed to the following strategies to reduce the impact during the construction phase. These strategies form part of the development consent conditions recommended in this report.

- a. Use of silt fencing to ensure sediment laden runoff does not occur off site during earthworks,*
- b. the hours of construction shall be in accordance with Council's standard construction hours unless prior arrangements are made,*
- c. prior to works commencing advise adjoining landowners of the works program and provide the contractors details should any concerns need to be raised during works,*
- d. building contractors are to implement the requirements of the Office of Environment "Interim Construction Noise Guideline (July 2009)" as far as practicable,*
- e. all reasonable, practicable steps are to be undertaken to reduce noise and vibration from the site,*
- f. construction noise is to be attenuated with the use of screening, acoustic enclosures, engine silencing and substitution by alternative processes to reduce noise emission levels from typical construction equipment, and*
- g. plant and equipment is to be maintained, checked and calibrated in accordance with the appropriate design requirements and to ensure that maximum sound power levels are not exceeded.*

8.6.3 Traffic Impacts

The existing road networks have sufficient capacity to cater for anticipated loads from the proposed development. Councils Acting Traffic Engineer has advised that this site was considered for multi-dwelling as part of the stage 10D2 Greenfield subdivision.

8.6.4 Social Impacts

The creation of new lots will provide additional housing 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, and appropriate conditions have been included in the draft conditions.

8.6.5 Economic Impacts

The development is considered to have a positive economic impact by providing employment in housing construction, as well as increasing of population in close proximity to the town center to support its economic viability.

8.7 (1)(c) The suitability of the site for the development

The site suitability has been discussed throughout this report. The proposal is permitted with consent, is consistent with the objectives of the zone and where necessary conditions have been recommended such as to offset any adverse impacts. The development site does not appear to have any physical impediments to prevent development.

8.8 (1)(d) Any submissions

Two submissions were received during the exhibition of the DA. The matters raised within the submissions are discussed below:

Unacceptable risk to children of northern shallows precinct

Officer comment:

The development is for the purpose of multi-dwelling housing.

The development is not out of character with the surrounding development and not expected to generate any significant safety concerns.

Furthermore, conditions have been imposed to require a footpath to be constructed for the entire length of the road frontage of the site. This will provide a footpath network within the 'northern shallows precinct' which ultimately connects to the open space areas within the sites vicinity.

At odds with R2 zoning

Officer comment:

The subject zone is R2 Low Density Residential. The objectives of the zone are as follows:

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

This objective is satisfied by the proposed development in that it offers a housing type conducive to a site in transition from suburban and urban area – and still in a low density environment.

Adding to this, the development complies with the determinative development standards of building height and importantly, floor space ratio which further provides evidence that the development is consistent with the surrounding built form and objective of the zone.

Access restriction to Lot 1705

9. REFERRALS

During the assessment of both the DA a number of internal technical referrals were made seeking expert opinion on key issues. These have been discussed throughout the report and where relevant conditions have been recommended within the draft consent. In summary internal referrals were made to the following officers:

- a. Landscape Technical Officer
- b. Section 94 Accountant
- c. Team Leader - Building (City Development)
- d. Traffic Engineer
- e. Development & Subdivision Engineer
- f. Environment Officer

10. RECOMMENDATION

It is recommended that the Panel approve the DA No. 41/2015 for multi-dwelling housing and subdivision at Lot: 1725 DP: 1196559, Cowries Avenue, Shell Cove, subject to the recommended development consent conditions shown below:

PART A - ADMINISTRATIVE CONDITIONS

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

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

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

A2 Prescribed Conditions

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

A3 Development in Accordance with Plans and Documents

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

Name of Plan/Document	Prepared By	Drawing/Document No./Revision	Drawing/Document Date
Overall Site Plan	Australand	1.0, Rev B	09/06/2015
Ground Floor Plan	Australand	2.1, Rev B	09/06/2015
First Floor Plan	Australand	2.2, Rev B	09/06/2015

Streetscape	Australand	3.1, Rev A	19/12/2014
DA plans and Elevations	Australand	5.1/A – 5.13/A, Rev A	19/12/2014
Garage Plans and Elevations	Australand	5.14 Rev A, 5.15 Rev B, 5.16 Rev A, 5.17 Rev B, 5.18, Rev A	15/12/2014 06/09/2015 19/12/2014 09/06/2015 19/12/2014
BASIX*	Victor Lin & Associates Pty Ltd	603614M	21/01/2015
Waste Management Plan	-	Project: Multi-Dwelling Development (27 Dwellings on CN 1801-1827 in proposed Lot 1725 Shell Cove	-
Subdivision Plan – Torrens and stage 1	Bruce Ernest Smith	Draft Subdn. Plan – v1	11/05/2015
Subdivision Plan – Community Title and stage 2	Bruce Ernest Smith	Draft Subdn. Plan – v2	19/05/2015
Concept Landscape Plan	EcoDesign	L-01 – L-07	Rev B
Colour/Material Schedule	Arkee	Finishes Palette, Shell Cove Master	-
Concept Drainage Plan	Cardno	FR112021-021 SK001 Rev 1	29/01/2015
Acoustic Report	Acoustic Logic	Stage 10D6, Lot 1725, Shell Cove, 20150040.1/2801A/R0/Yk	28/01/2015

A4 Staging of Development

The development shall be staged as follows, unless otherwise approved by Council in writing:

Stage 1 - Torrens Title subdivision of Lot 1725 to construct 9 dwellings with subdivision and 1 residue lot for subsequent community title development and the internal car court.

Stage 2 - Community Title subdivision of the residue lot in Stage 1 to construct 18 dwellings with subdivision including one lot for the internal access driveway.

A5 House Numbering

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

- Lot 1801 - 2 Cowries Avenue Shell Cove 2529
- Lot 1802 - 4 Cowries Avenue Shell Cove 2529
- Lot 1803 - 6 Cowries Avenue Shell Cove 2529

- d. Lot 1804 - 8 Cowries Avenue Shell Cove 2529
- e. Lot 1805 - 10 Cowries Avenue Shell Cove 2529
- f. Lot 1806 - 12 Cowries Avenue Shell Cove 2529
- g. Lot 1807 - 14 Cowries Avenue Shell Cove 2529
- h. Lot 1808 - 16 Cowries Avenue Shell Cove 2529
- i. Lot 1809 - 18 Cowries Avenue Shell Cove 2529
- j. Lot 1810 - 20 Cowries Avenue Shell Cove 2529
- k. Lot 1811 - 22 Cowries Avenue Shell Cove 2529
- l. Lot 1812 - 100 Harbour Boulevard Shell Cove 2529
- m. Lot 1813 - 102 Harbour Boulevard Shell Cove 2529
- n. Lot 1814 - 104 Harbour Boulevard Shell Cove 2529
- o. Lot 1815 - 106 Harbour Boulevard Shell Cove 2529
- p. Lot 1816 - 108 Harbour Boulevard Shell Cove 2529
- q. Lot 1817 - 110 Harbour Boulevard Shell Cove 2529
- r. Lot 1818 - 112 Harbour Boulevard Shell Cove 2529
- s. Lot 1819 - 114 Harbour Boulevard Shell Cove 2529
- t. Lot 1820 - 116 Harbour Boulevard Shell Cove 2529
- u. Lot 1821 - 118 Harbour Boulevard Shell Cove 2529
- v. Lot 1822 - 120 Harbour Boulevard Shell Cove 2529
- w. Lot 1823 - 122 Harbour Boulevard Shell Cove 2529
- x. Lot 1824 - 124 Harbour Boulevard Shell Cove 2529
- y. Lot 1825 - 126 Harbour Boulevard Shell Cove 2529
- z. Lot 1826 - 128 Harbour Boulevard Shell Cove 2529
- aa. Lot 1827 - 130 Harbour Boulevard Shell Cove 2529

The allocated house numbers must be shown on the Construction Certificate plans, subdivision plans and where plans and details are provided to service suppliers, numbers must be in accordance with the above.

PART B - PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

B1 Amendments to Approved Plans

The amendments described below must be incorporated in the overall development and must be reflected in any plans prepared for the purpose of obtaining a Construction Certificate:

- a. the landscape plan must be updated to include the following:
 - i. Sheet No. L06 – the proposed landscaping located on the road reserve of both sides of the northern driveway of the proposed development is to be removed,
 - ii. The bollard lighting located within the road reserve at the northern entrance of the proposed development is to be relocated within the property boundary, and
 - iii. the use of the tree species *Cupaniopsis anacardioides* is to be omitted and is to be replaced with the tree species *Buckinghamia celsissima* or an alternative to be approved in writing by council.

B2 Section 94 Contributions – Stage 1

A contribution of \$89,754.51, subject to annual indexation, must be paid to Council towards the provision of community infrastructure and services prior to the issue of the Construction Certificate. This amount has been calculated in accordance with Shellharbour City Council's *Section 94 Contributions Plan 2013* dated 18 December 2013.

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

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

B3 Section 94 Contributions – Stage 2

A contribution of \$201,947.64 subject to annual indexation, must be paid to Council towards the provision of community infrastructure and services prior to the issue of the Construction Certificate. This amount has been calculated in accordance with Shellharbour City Council's *Section 94 Contributions Plan 2013* dated 18 December 2013.

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

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

B4 Detailed Drainage Design (Subdivision)

A detailed drainage design of the site must be submitted and approved prior to the release of the Construction Certificate. The detailed plan must:

- a. be generally in accordance with plan no. FR112021-021 SK001 revision P1 prepared by Cardno on 29/01/2015,
- b. for subdivision – Lots 1801-1809 drain to the newly created stormwater easement on the proposed community lot 1810,
- c. for buildings - two detailed designs for drainage options to be provided. Option 1 to indicate Lots 3 to 18 drain to the street. Option 2 to provide detailed design for drainage of lots 3 to 18 if the construction of Harbour Boulevard has not commenced,
- d. the torrens title lots 1801-1809, and lots 2 & 19 to drain to the newly created stormwater easement on the adjoining lot to the rear,
- e. 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,
- f. be to the satisfaction of the Certifying Authority,
- g. be designed to cater for a 1 in 20 year Average Recurrence Interval storm event,
- h. overflow drainage paths are to be provided and be designed to cater for 1 in 100 year Average Recurrence Interval storm event,
- i. comply with Council's *Shellharbour Development Control Plan (Chapter 25 & Appendix 12)* unless variation is specifically noted and approved on DA concept drainage plan,

- j. 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.

B5 Structural Design of Deep Pits

All pits must be consistent with the following requirements:

- a. pits deeper than 0.9 metres must be designed by a certified structural engineer and be in accordance with AS3600-2009,
- b. 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
- c. pits deeper than 1.8 metres are to be reinforced concrete.

Details to this effect must be incorporated on the detailed drainage design that is submitted to the Certifying Authority prior to issue of the Construction Certificate.

B6 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.

B7 Stormwater Conduit in Road Reserve and Connection with Kerb

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

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

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

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

B8 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 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,
- h. overall assessment of the engineering plans for the proposed development and their suitability in relation to the site's geotechnical characteristics.

B9 Soil and Water Management Plan (SWMP)

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. 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)* thus ensuring the following objectives are achieved, namely:

- a. minimise 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.
 - 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 10 year ARI event at all inlet and outlet structures, and
- J. including measures to prevent the tracking of sediment off the site.

B10 Retaining Walls

Where a retaining wall exceeds 600mm in height, the wall must be designed by a practicing

structural engineer and a Construction Certificate must be obtained prior to the commencement of work on the retaining wall.

All retaining walls must be located wholly within the property, including footings and agricultural drainage lines. Construction of retaining walls or associated drainage work along common boundaries must not compromise the structural integrity of any existing structures.

B11 Driveway Finishes

The surface finish of the internal road within the property must include at least two different materials and/or colours to break up the visual impact of the driveway and compliment the development. Uncoloured concrete is not acceptable as the dominant material. Details are to be submitted to the Certifying Authority for approval prior to issue of the Construction Certificate.

B12 Visitor Parking Materials

The visitor car parking space/s must be clearly defined with paving materials and/or colours that are different to the driveway. Line marking to delineate the visitor car parking spaces is not acceptable. Consideration should be given to using semi-pervious paving materials for visitor parking areas to soften the appearance of these areas and to allow for onsite infiltration of water. Details must be shown on the plans submitted to the Certifying Authority prior to the issue of the Construction Certificate.

B13 Engineer Designed Pavement

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

B15 Impact on Existing Easements

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

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

B16 Acoustic Attenuation

Prior to the Construction Certificate being issued the developer must demonstrate how the development will comply with the acoustic report prepared by Acoustic Logic (Stage 10D6, Lot 1725 Shell Cove, Doc reference 20150040.1/2801A/RO/YK). This can be demonstrated by the placement of these requirements on the construction certificate drawings.

B17 Footpath

A 1.2m wide concrete footpath must be constructed along the road frontage of Lot 1275, DP 1196559. This work must be carried out by Council, or a Council approved contractor, at the developer's expense, including all alterations of public infrastructure where necessary. The path must be constructed in accordance with the following requirements:

- a. 25Mpa concrete 100mm thick and steel reinforced,
- b. connelly key joints are to be used every 3m with the appropriate plastic strip in place on top to ensure a good finish,
- c. an expansion joint is to be placed every 12m and must have the reinforcing pass through it and,
- d. all connections to existing paths and gutters must be dowelled.

B18 Medium Density Pit Requirements

The private open space of each residence must contain at least one stormwater drainage pit of dimensions not less than 300mm x 300mm and be suitably graded to this pit. Details to this effect are to be included on the detailed drainage design submitted to the certifying authority for the Construction Certificate.

B19 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.

B20 Pit at Property Boundary

All stormwater drainage to go to pit just within and adjacent to property boundary prior to discharge. This pit shall have a debris screen installed.

B21 Engineer Designed Pavement (Residential)

The vehicle 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. Pavement to comply with *Australian Standard 'Guide to Residential Pavements' (AS 3727-1993 or subsequent amendments)*.

PART C - PRIOR TO COMMENCEMENT OF WORKS

C1 Erosion & Runoff Controls

Before work starts, appropriate erosion and runoff controls must be installed to prevent soil erosion, water pollution or the discharge of loose sediment on surrounding land, stormwater systems or watercourses.

These controls may include the following (where applicable):

- a. erect a silt fence,
- b. limit the removal or disturbance of vegetation and topsoil,
- c. divert uncontaminated run-off around cleared or disturbed areas,
- d. install sediment traps/socks around any stormwater inlets and drainage lines,
- e. stockpile topsoil, excavated material, construction and landscaping materials and debris within the site. These should be covered or seeded to prevent loss of these materials,
- f. provide a single vehicle access to the site including measures to prevent the tracking of sediment off the site, and
- g. provide adequate control measures to suppress dust.

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

C2 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.

C3 Soil and Water Management Plan Implementation (SWMP)

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

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 supported with suitable photographic records. This information must be submitted to Council prior to the commencement of work.

C6 Structural Details

The following structural details must be provided to the Certifying Authority prior to commencing work:

- a. structural engineer's design for all reinforced concrete footings and slabs,
- b. structural engineers design for all structural steel beams, framing and connections,
- c. roof truss and bracing details, and
- d. manufacturer's specifications for any patented construction systems.

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

Council records indicate that this site has a soil classification of 'H'. The engineer's design must make specific reference to the classification as a consideration.

C7 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

- 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.

C8 Open or Occupy a Roadway or Footpath - Section 138 *Roads Act 1993*

For works within the road reserve such as:

- a. opening up a roadway or footpath, e.g. a driveway, or
- b. occupying the public road reserve for any reason (common reasons include to pump concrete, stand mobile cranes, pump stormwater from the site)

a Road Opening Permit under section 138 of the *Roads Act 1993* is required.

An application (copy attached to this consent) must be made to Council for the temporary occupation of the road reserve prior to works commencing.

Please note the application *may* require the following:

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

C9 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.

C10 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.

C11 Public Liability

Prior to the commencement of works, 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.

C12 Removal of Overhead Power lines

No works are to commence within the area delineated area of 'Easement for Overhead Powerlines 9 wide' affecting Lot 1725 in DP1196559 until such time that the overhead power lines have been removed. Documentary evidence must be provided to the Certifying Authority from Endeavour Energy confirming that the overhead power lines have been removed.

PART D - DURING CONSTRUCTION WORKS

D1 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.

D2 Maintenance of Erosion & Runoff Controls

The soil and water management controls must be maintained at all times and checked for adequacy daily. The controls must not be removed until the development is completed and the disturbed areas have been stabilised.

Maintenance must include but is not limited to ensuring:

- a. all sediment fences, sediment traps and socks are properly placed and are working effectively
- b. drains, gutters and roads must be maintained clear of sediment at all times.

It is an offence under the *Protection of the Environment Operations Act 1997* to allow soil or other pollutants to fall or be washed into any waters or be placed where it is likely to fall or be washed into any waters. Substantial penalties may be issued for any offence.

D3 Waste Management

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

D4 Storage of Materials

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

D5 Survey Certification

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

The report must certify all of the following:

- a. the distance of the structure to all boundaries of the allotment are in accordance with the approved plans,
- b. the height of the floor level/s in relation to the natural ground level are in accordance with the approved plans, and

D6 Cut/Fill

The 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.

D7 Retaining Wall on Boundary

All retaining walls must be located wholly within the property, including footings and agricultural drainage lines. Construction of retaining walls or associated drainage work along common boundaries must not compromise the structural integrity of any existing structures.

D8 Lots and Site Filling

All lot and site filling must be performed under level 1 Geotechnical supervision in accordance with AS 3798-2007 or subsequent amendments.

D9 Excavation & Drainage Easement

There must be no loss of support of the drainage easement as a result of excavation of the site.

D10 Construction Management

During the construction phase of the development, the head contractor is responsible to implement the following management strategies:

- a. Use of silt fencing to ensure sediment laden runoff does not occur on site during earthworks,
- b. The hours of construction shall be in accordance with Council's standard construction hours unless prior arrangements are made,
- c. Prior to works commencing advise adjoining landowners of the works program and provide the contractors details should any concerns need to be raised during works,
- d. Building contractors are to implement the requirements of the Office of Environment "Interim Construction,
- e. Noise Guideline (July 2009)" as far as practicable,
- f. All reasonable, practicable steps are to be undertaken to reduce noise and vibration from the site,
- g. Construction noise is to be attenuated with the use of screening, acoustic enclosures, engine silencing and substitution by alternative processes to reduce noise emission levels from typical construction equipment,
- h. Plant and equipment is to be maintained, checked and calibrated in accordance with the appropriate design requirements and to ensure that maximum sound power levels are not exceeded.

D11 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.

D12 Drainage Construction

Construction of stormwater drainage to comply with Detailed Drainage Design Condition option 1 if Harbour Boulevard is constructed or option 2 if Harbour Boulevard is not constructed.

D13 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.

All construction is to be carried out as per Council's Subdivision Code requirements.

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*.

D14 Driveway and Layback - From Kerb to Property Boundary

A standard industrial vehicular concrete driveway and layback must be constructed between the kerb and the property boundary. The driveway must:

- a. maintain a perpendicular alignment from the kerb to the property boundary line,
- b. have a minimum width of 6m for main carcourt off Cowries Avenue, except for the northern driveway which is to be reduced to 5m.
- c. Driveways for Lots 1801-1809 to be 3.5m max at property boundary.
- d. not interfere with the existing public utility infrastructure,
- e. be located 500mm clear of all drainage structures and 2m from the street tree,
- f. be finished with a slip resistant coating, and
- g. be constructed by Council, or a Council approved contractor, at the developer's expense, including all alterations of public infrastructure where necessary.

Where there is conflict between the location of the proposed driveway and the assets of a

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

D15 Unexpected Finds Contingency

Should any further suspect materials (identified by unusual staining, odour, discoloration or inclusions such as building rubble, asbestos, ash material etc) be encountered during any stage of earth works/ site preparation/ construction, then such works must cease immediately until a qualified environmental consultant has been contacted and conducted a thorough assessment.

In the event that contamination has been identified as a result of this assessment and remediation is required, site works must cease in the vicinity of the contamination and the Consent Authority must be notified immediately.

PART E - PRIOR TO OCCUPATION

E1 Occupation Certificate

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

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

E2 Sydney Water Section 73 Compliance Certificate

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

Application must be made through an authorised Water Servicing Coordinator. Please refer www.sydneywater.com.au > Building and Developing > Developing your Land > Water Servicing Coordinator or telephone 13 2092 for assistance. Please make early application for the Certificate as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

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

E3 Electricity Supply

Prior to the release of the Occupation Certificate for the development, the relevant electricity provider must provide written advice to the Principal Certifying Authority that all requirements for the supply of electricity to the proposed allotments have been satisfied.

E4 BASIX

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

E5 Works As Executed - Stormwater Drainage

Prior to the issue of an Occupation Certificate, Works As Executed Plans must be submitted the Certifying Authority by a registered surveyor certifying compliance of all drainage works with the

approved design plans. The Works As Executed dimensions and levels must be shown in red on a copy of the approved Construction Certificate plans. This plan must verify surface and invert levels on all pits, invert levels and sizes of all pipelines, and finished surface levels on all paved areas. All levels must relate to Australian Height Datum.

E6 Verification of Acoustic Protection Measures

Upon completion of all works and prior to the issue of an Occupation Certificate for each stage of the development, written certification from a suitably qualified and experienced acoustic consultant must be submitted to the Principal Certifying Authority stating that all noise mitigation measures have been incorporated as required by condition B16 Acoustic Attenuation.

E7 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.

E8 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.

E9 Completion of Landscape Works

The unbuilt upon land, with the exception of the paving, must be landscaped in accordance with the approved landscape plan prior to the issue of an Occupation Certificate. Landscape or turf areas must not be reduced or replaced with hard impermeable surfaces. Any variations to the plan 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.

E10 Repairs to Public Infrastructure

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

E11 Sign for Visitor Parking

A sign, legible from the car court, must be permanently displayed to indicate the availability of visitor parking prior to the release of the Occupation Certificate.

PART F - PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

F1 Partial Completion of Building Works Required

The Subdivision Certificate for the Torrens Title Subdivision must not be released until the walls of dwelling lots 1801-1809 has 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.

In addition, the Subdivision Certificate for the Torrens Title Subdivision must not be released until such time that documentary evidence is provided from Endeavour Energy confirming the Easement for Overhead Power lines 9 wide affecting Lot 1725 DP1196559 has been extinguished.

F2 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 include 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,
- c. lots 3-5 to present bins at the northern end of Cowries Avenue Access point,
- d. lots 2, 6-14 and 19 to present bins at the north-western Cowries Avenue access points,
- e. and lots 15-18 to present bins along Shallows Drive, at the southern access points, and
- f. ensuring dwellings within the community scheme are entitled to utilise the community allotment (lot 1), including visitor car parking and shares in the costs associated with its upkeep (maintenance levies and the like).

F3 Partial Completion of Building Works Required

The Subdivision Certificate for the Community Title Subdivision must not be released until the common walls of dwelling lots 1-19 been constructed to a minimum height of 1.0m and the requirements of the preceding condition have been satisfied unless otherwise agreed to in writing by council. 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.

F4 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 Subdivision 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,
- 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.

F5 Lot Creation 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.

F6 Final Plan of Subdivision

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

- a. an application for a Subdivision Certificate,
- b. five paper prints of the final plan of subdivision,
- c. the original and two paper copies of the 88B Instrument and Administration Sheet,
- d. fees appropriate at the time of submission of the application, and
- e. an electronic copy of the subdivision linework. The electronic copy should be in Map Grid of Australia 1994 Zone 56 (GDA94) coordinates and must contain closed linework of boundaries and easements. It must be submitted in DWG or DXF format on cd-rom or by email to traffic&subdivision@shellharbour.nsw.gov.au. The email and the electronic copy should be named "Subdivision Title & Stage DANO/Year Street Address Final Plan".

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

F7 Works As Executed Plans - Subdivision

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

- a. compliance with the approved design plans of all drainage works within council land, road reserve and drainage easements including connection into the subject lot/s, surface and invert levels of all pits, invert levels and sizes of all pipelines,
- b. certification from a registered surveyor that all storm water pipes and other services are wholly within an appropriate easement,
- c. compliance with the approved design plans of paved areas within rights of carriageway and road reserve,

- d. the extent, depth and final levels of filling,
- e. the location of all underground service conduits, and
- f. all deviations from the approved Civil Engineering Plans.

All levels must relate to Australian Height Datum.

F8 Services & 88B Instrument

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

Restrictions must be placed on title with respect to:

- a. access and maintenance for structures on the boundary or immediately adjacent to,
- b. the provision of legal and practical access (e.g. reciprocal rights of carriageway),
- c. landscaping on boundaries,
- d. drainage structures,
- e. an easement on all lots for support, access and maintenance 900mm wide adjacent to the "zero" lot line walls,
- f. easements for drainage, including requirements of support, access and maintenance, and

F9 Easements on Title

Easements must be registered on the property title covering the following aspects of the development prior to the release of the final plan of subdivision:

- a. drainage of lot 1801 to lot 1809 onto the adjoining community title lot.

PART G - AFTER ISSUE OF OCCUPATION CERTIFICATE/DURING OCCUPATION

G1 BASIX Commitments

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

G2 Allocation of Visitor Parking

The visitor car parking spaces must always be available for visitor parking and must not at any time be allocated, sold or leased to an individual owner/occupier. In this regard, the visitor car parking spaces must form part of the common property in the strata subdivision.

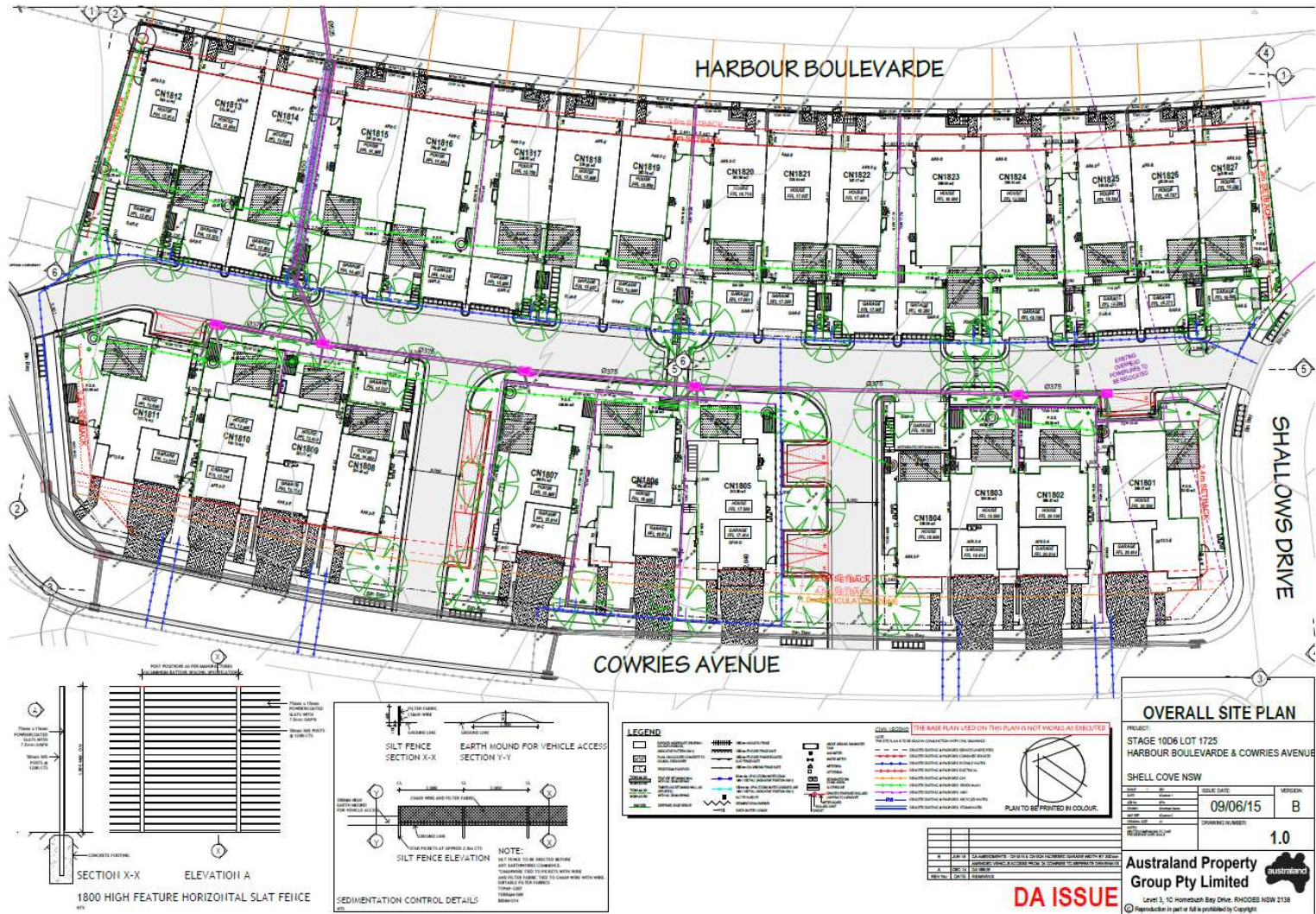
G3 Waste Bins

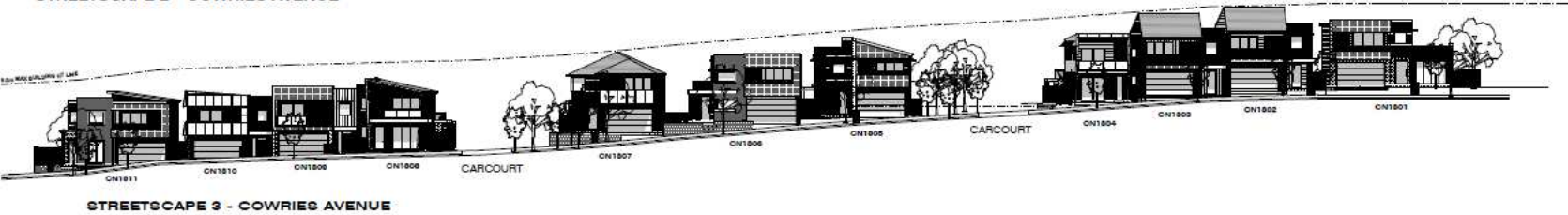
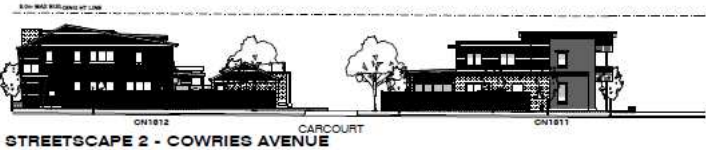
The waste management of the individual waste bins must comply with the following requirements:

- a. waste receptacles must be presented to the kerb, not impeding onto adjoining properties or Council's road verge and collected immediately after collection service, and
- b. between collection periods, all waste/recycling materials generated onsite will be securely enclosed in bins and stored at their dwelling property

End conditions

ATTACHMENT 1 – DEVELOPMENT PLANS





STREETSCAPES			
PROJECT: STAGE 1006 LOT 1725 HARBOUR BOULEVARDE & COWRIES AVENUE SHELL COVE NSW			
DATE	BY	SCALE DATE	VERSION
19/12/14	A		
DRAWING NUMBER:		3.1	
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