

JOINT REGIONAL PLANNING PANEL
(Southern Region)

SUPPLEMENTARY MEMO

JRPP No	2015STH026
DA Number	651/2015
Local Government Area	Shellharbour
Proposed Development	23 dwellings and 23 lot Torrens title subdivision
Location	Lot 1279 DP 1175512 (Proposed lots 2039 & 2040 in DP 1203745), The Farm Way Shell Cove
Date	7 January 2016
Report by	Victoria Nicholson, Senior Development Assessment Officer

Purpose of supplementary memo to the Planning Report of 2015STH026 (DA 651/2015)

This supplementary memo has been prepared in response to the following matters raised by the JRPP Panel as provided in an email sent by the Panel Secretariat 6 January 2016:

- a. concern regarding clause 4.1B(3) of Shellharbour LEP 2013, in relation to the approvals which created superlots Lots 97 and 98 (our ref 2013STH027).
- b. whether the application is in compliance with clause 4.1B; i.e., that the lot sizes are satisfactory and the proposed dwellings can be categorised appropriately.

Reply

1. A Concept Plan for the Shell Cove Boat Harbour Precinct (MP07_0027) was approved under Part 3A of the *Environmental Planning & Assessment Act 1979* (the Act) on 15 February 2011. A variety of land uses were approved under the Concept Plan including residential, commercial / retail, business park, dry boat storage facility and open space.
2. A development application, DA 411/2013 (JRPP Ref 2013STH027), was then lodged seeking approval for the subdivision of land within the residential precincts B1 and C1. Precincts B1 and C1 are located within the Shell Cove Boat Harbour Precinct.

DA 411/2013 was approved by the Joint Regional Planning Panel on 3 November 2011. In considering this application, the proposal and submitted documentation was demonstrated to be consistent with the plans, documentation and consent conditions of the Concept Approval.

The approved subdivision design included fourteen superlots identified for future multi dwelling housing development.

3. The Boat Harbour Precinct Concept Plan provides indicative dwelling numbers and gross floor areas for each Precinct rather than stipulating development standards for minimum lot size and floor space ratio.

Multi dwelling housing development is integral in achieving the residential densities identified in the Concept Plan.

4. The Shell Cove Boat Harbour Precinct Concept Plan predates *Shellharbour Local Environmental Plan 2013* (SLEP 2013).
5. Schedule 6A of the Act is applicable to this development application because the Shell Cove Boat Harbour Precinct Concept Plan was approved under the now repealed Part 3A of the Act. Under the transitional provisions of Schedule 6A clause 3B, environmental planning instruments apply but only to the extent that they are consistent with the approved concept plan. An extract from the Act is provided below.

Schedule 6A Transitional arrangements—repeal of Part 3A

3B Provisions applying with respect to approval of concept plans

- (1) *This clause applies to development (other than an approved project) for which a concept plan has been approved under Part 3A, before or after the repeal of Part 3A, and so applies whether or not the project or any stage of the project is or was a transitional Part 3A project.*
- (2) *After the repeal of Part 3A, the following provisions apply (despite anything to the contrary in section 75P (2)) if approval to carry out any development to which this clause applies is subject to Part 4 or 5 of the Act:*
 - (a) *if Part 4 applies to the carrying out of the development, the development is taken to be development that may be carried out with development consent under Part 4 (despite anything to the contrary in an environmental planning instrument),*
 - (b) *if Part 5 applies to the carrying out of the development, the development is taken to be development that may be carried out without development consent under Part 4 (despite anything to the contrary in an environmental planning instrument),*
 - (c) *any development standard that is within the terms of the approval of the concept plan has effect,*
 - (d) *a consent authority must not grant consent under Part 4 for the development unless it is satisfied that the development is generally consistent with the terms of the approval of the concept plan,*
 - (e) *a consent authority may grant consent under Part 4 for the development without complying with any requirement under any environmental planning instrument relating to a master plan,*
 - (f) *the provisions of any environmental planning instrument or any development control plan do not have effect to the extent to which they are inconsistent with the terms of the approval of the concept plan,*
 - (g) *any order or direction made under section 75P (2) when the concept plan was approved continues to have effect.*
- e. Notwithstanding the provisions of Schedule 6A, with respect to clause 4.1B(3) of SLEP 2013 (extract below) the proposed dwellings and associated subdivision layout is consistent with the requirements of the clause; the development proposes that each lot will have an area of at least 200m² and will contain one dwelling.

As part of the assessment of the proposed dwelling design and siting and the lot layout and size, residential amenity has been considered. In this regard, the proposal will not undermine the objective of clause 4.1B.

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) *Despite clause 4.1, development consent may be granted for the subdivision of a lot on which development for the purposes of an attached dwelling or a semi-detached dwelling is proposed to be carried out if the area of each resulting lot will be at least 225 square metres.*
- (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.*