

COUNCIL ASSESSMENT REPORT

Panel Reference	2016STH015
DA Number	DA0100/2016
LGA	Shellharbour City Council
Proposed Development	24 Lot Torrens Subdivision and Construction of 24 Townhouses with Garages and Landscape Works
Street Address	Lot 1279 DP 1175512 The Farm Way, Shell Cove
Applicant/Owner	Australand Corporation (NSW) Pty Ltd / Shellharbour City Council
Number of Submissions	Nil
Regional Development Criteria (Schedule 4A of the Act)	<p>Clause 4 Council related development over \$5 million</p> <p>Development that has a capital investment value of more than \$5 million if (b) the council is the owner of any land on which the development is to be carried out.</p> <p>The CIV for the proposed development is \$19.7 Million.</p>
List of all relevant s79C(1)(a) matters	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act Part 3A Concept Approval - MP07_0027 • Illawarra-Shoalhaven Regional Plan 2015 • State Environmental Planning Policy (SEPP) No 55 – Remediation of Land • SEPP 71 – Coastal Protection • SEPP (Building Sustainability Index: BASIX) 2004 • SEPP (State and Regional Development) 2005 • SEPP (Affordable Rental Housing) 2009 • Shellharbour Local Environmental Plan (LEP) 2013 • Shellharbour Development Control Plan (DCP) 2013 • Shellharbour Section 94 Contributions Plan 2013. • Medium Density Building Design Guidelines • NSW Coastal Policy 1997
Clause 4.6 variation?	No.
SIC (S94EF)?	No
List all documents submitted with this report for the Panel's consideration	<p>ATTACHMENT 1 - Schedule of Conditions</p> <p>ATTACHMENT 2 – Concept Approval Compliance Table</p> <p>ATTACHMENT 3 – Web links to Concept Approval MP07_0027</p> <p>ATTACHMENT 4 – Site Photos – 26 September 2016</p> <p>ATTACHMENT 5 – Aerial Photos – 26 September 2016</p> <p>ATTACHMENT 6 –Fence Detail</p> <p>ATTACHMENT 7 – Design Guidelines Medium Density Housing</p>
Recommendation	Approve
Report prepared by	Anthony Randall - Team Leader Planning
Report endorsed by	Grant Meredith – Group Manager City Development
Report date	26 September 2016

EXECUTIVE SUMMARY

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* ("the Act") as Council is the owner of land on which the proposed development is to be carried out and the capital investment value exceeds \$5M.

Lot 1279 DP 1175512 (the parent lot) is partly mapped as sensitive coastal location, however the land upon which the development is to be carried out does not fall within the sensitive coastal location.

The Site

The development site forms part of Stage 99-100, Precinct B1 of the Shell Cove Concept Plan No. MP 07_0027 approved under Part 3A of the *Environmental Planning Assessment Act 1979*. The masterplan comprises of residential, commercial, retail, hotel, business park, dry boat storage facility, open space and wetlands; refer Attachment 3 at the end of this report.

The civil works and infrastructure, associated with Development Consent No. 411/2013 at the site, including the adjacent road networks are presently under construction.

Precinct B1 is a low to medium density residential precinct, and is located to the east of the future town centre, and to the west of adjacent Precinct B1. Precinct B1 and C1 are the first residential precincts to be developed under the concept approval.

Proposal

The proposal is to construct 24 townhouses with garages and associated landscape works and subdivide into 24 lots the unregistered super-lots described as Lots 2236 and 2237 in provisional DP1203745. The Development Application No. 411/2013 was considered by the Joint Regional Planning Panel and approved on 3 November 2014 creating the super-lots.

The proposed subdivision will be constructed in 4 stages aligning with Stage 99 and 100 within Stage B1 of the Concept Plan approval.

Permissibility

The site is zoned R3 Medium Density Residential under *Shellharbour Local Environmental Plan 2013* (SLEP 2013). Pursuant to SLEP 2013 clause 2.6, subdivision of land is permissible subject to development consent.

Public Exhibition

The application was publicly notified in accordance with statutory requirements. No submissions were made to Council.

Recommendation

The proposal generally complies with the Concept Approval and relevant state and local statutory planning policies and controls, therefore it is recommended that DA No. 0100/2016 be approved subject to deferred commencement conditions contained in Attachment 1.

ATTACHMENTS

ATTACHMENT 1 - Schedule of Conditions

ATTACHMENT 2 – Concept Approval Compliance Table

ATTACHMENT 3 – Web links to Concept Approval MP07_0027

ATTACHMENT 4 – Site Photos – 26 September 2016

ATTACHMENT 5 – Aerial Photos – 26 September 2016

ATTACHMENT 6 – Fence Detail

ATTACHMENT 7 – Design Guidelines Medium Density Housing

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ASSESSMENT REPORT AND RECOMMENDATION

1 PURPOSE OF REPORT

This report is presented to the Joint Regional Planning Panel (JRPP) for determination of a development application (DA) for construction of 24 Lot Torrens Subdivision and Construction of 24 Townhouses with Garages and Landscape Works. The proposal is on unregistered Lots 2236 and 2237 in provisional DP1203745, but the land is legally described as Lot 1279 DP 1175512.

The JRPP is the determining authority for this application as the development has a capital investment value of \$10.07M. Council has an interest in the application, as the landowner and Joint venture partner with Frasers Development Pty Ltd as the developer.

2 SUMMARY OF RECOMMENDATION

It is recommended that the JRPP grant approval to DA No. 100/2016 to construct 24 Lot Torrens Subdivision and Construction of 24 Townhouses with Garages and Landscape Works at Lot 1279 DP 1175512, Shallows Road, Shell Cove, subject to the schedule of conditions contained within Attachment 1 of this report.

3 BACKGROUND

3.1 Planning History

The proposal is located within “The Waterfront” development. The “The Waterfront” brand was established by the proponent to market the total project.

The broad project comprises the construction of:

- a new boat harbour connected to the Pacific Ocean subject to a Ministerial consent and
- surrounding urban development area which is subject to a State Government Part 3A concept plan approval.

Figure 1 below is an indicative layout of the concept plan area (outlined red) surrounding the new boat harbour.



Figure 1 - Boat Harbour Precinct Concept Plan Area

3.1.1 Boat Harbour Marina Consent (DA95/133)

Shellharbour City Council received Development Consent No. 95/133 from the then Minister for Urban Affairs and Planning on 26 November 1996 for the construction of the following:

- a 350 berth boat harbour/marina at South Shellharbour Beach
- enhancing and enlarging a wetland at Shadforth land

- the removal of land fill material from the boat harbour site and placement of treated contaminated landfill in a series of mounds used for acoustic mitigation adjacent to a realigned haul road to the Bass Point quarry operated by Pioneer Construction Materials Pty Ltd.

The boat harbour/marina proposal was the subject of a 1996 Commission of Inquiry. The Commission examined matters, including the environmental aspects of the proposal and the significance of a SEPP 14 wetland proposed to be removed, and the effectiveness of related compensatory measures. The then Minister for Urban Affairs and Planning subsequently approved the application.

3.1.1.1 Section 96 Modifications to DA 95/133

There have been a number of modifications to the Boat Harbour consent which are set out below:

Table No. 1 – Modifications to Boat Harbour

Mod No.	Determined	Description
MOD 1	9 November 2001	To erect acoustic barriers along the haul road instead of engineered landfill cells
MOD 2	6 September 2004	To permit the placement of the old landfill material to be extracted from the Shellharbour Wetland during construction to a single landfill cell in the quarry buffer zone on the southern edge of the site
MOD 3	31 October 2006	To change the layout and design of the boat harbour and marina; delete the proposed flushing pipe system; and remove stop-work provisions for indigenous heritage management
MOD 4	25 November 2008	To extend the development's seaward boundary to incorporate the inter-tidal area
MOD 5	20 August 2010	To modify Condition 18 regarding acid sulfate soil management
MOD 6	08 July 2015	To alter a section of sea wall and harbour edge treatment

3.1.2 Major Project Declaration

Surrounding the Boat Harbour and Marina is the Boat Harbour Precinct. On 2 April 2007 the Boat Harbour Precinct project was declared a major project under Part 3A of the Environmental Planning and Assessment Act 1979 'the Act' because it met Schedule 2 criteria of the (then) State Environmental Planning Policy (Major Projects) 2005 being:

- a development for marina facilities that stores more than 80 vessels, and
- a tourist, convention and entertainment facility with a CIV more than \$100M or that employs more than 100 people.

The opinion was formed by the Director-General, as the Minister for Planning's delegate.

3.1.3 Boat Harbour Precinct (BHP) Concept Approval (MP07_0027)

On the 15 February 2011 the Boat Harbour Precinct Concept Plan Approval No. MP07_0027 was approved by the Deputy Director General of the Department of Planning.

The Concept Plan approval is for a mixed development comprising residential, commercial, community, retail, hotel, business park, dry boat storage facility, open space and wetlands.

The project has a capital investment value of \$463.4 million and would employ about 1,075 people during construction and around 2,800 people once operational.

The Concept Plan comprises the following key elements to guide future development:

- building height in terms of number of storeys
- indicative floor areas
- number of dwellings
- land uses
- indicative street alignments and pedestrian networks
- location of open space and wetlands.

The key concept plans parameters are

- Number of dwellings 1,238
- Number of storeys 2-4 except for a hotel of 9
- Retail/Commercial floor space 22,000 m²
- Business Park floor space 30,000 m²

The development site is divided into 8 precincts/stages as shown in Figure 2.

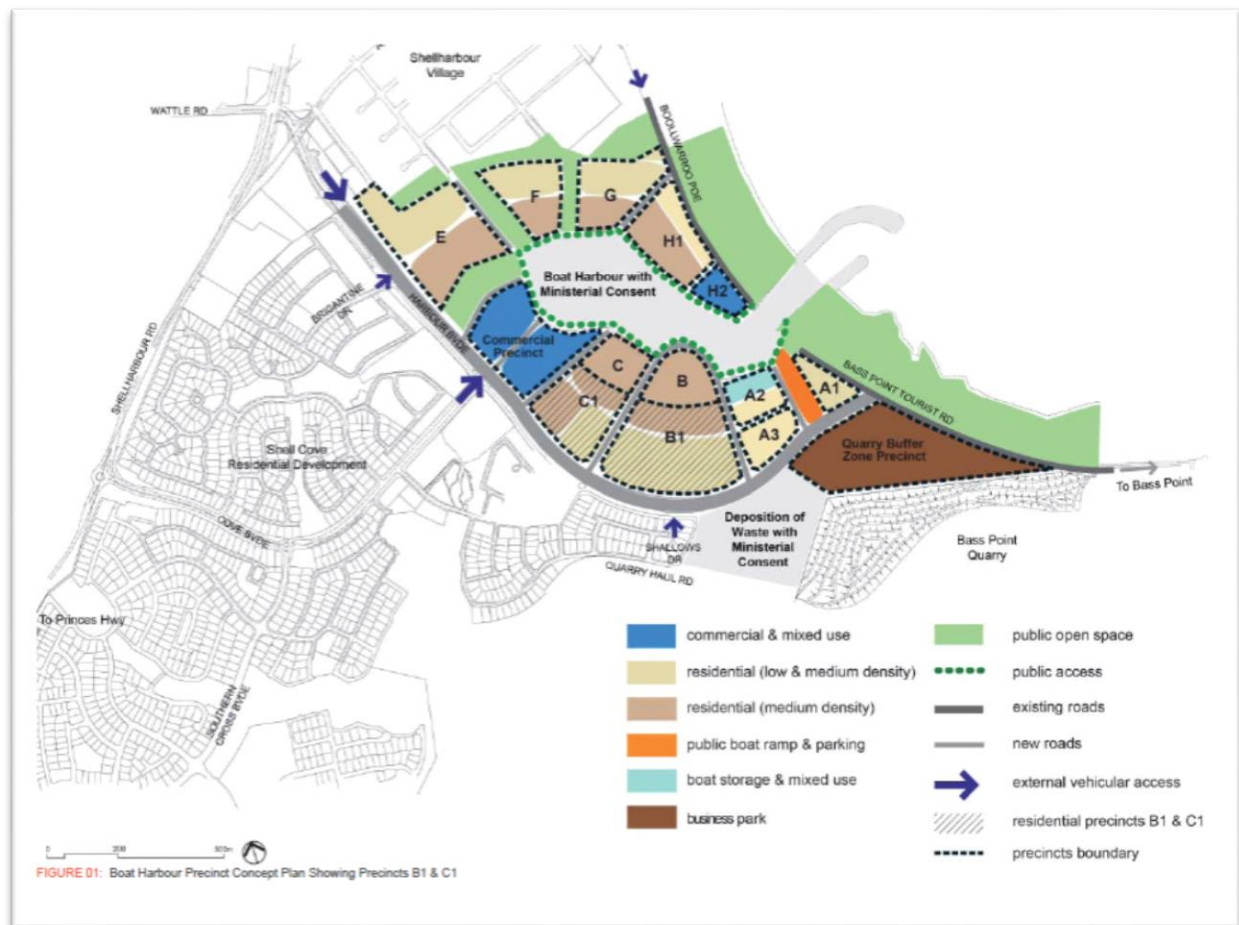


Figure 2 - Boat Harbour Precinct Staging Plan

A key feature of the project is the continuous public pedestrian access around the perimeter of the boat harbour as shown in Figure 3 below. The concept plan approval includes that the public walkway has clear and direct access to streets meeting the harbour edge, and that public access is well defined and integrated, giving wider public access and a greater sense of public ownership.

The BHP will have some relatively intensive traffic generating activities including the town centre, marina, hotel and commercial development. The Concept Plan for the BHP was considered in the context of planning for Shell Cove as a whole and its inter-relationship with existing adjoining development.

The existing and proposed road network within Shell Cove has been designed with sufficient capacity to safely and efficiently cater for additional traffic generated by the BHP. The Shellharbour Road key intersections servicing the development will have sufficient capacity to safely and efficiently cater for the full development of Shell Cove. The major access to Shell Cove is currently Cove Boulevard. Harbour Boulevard will form a second major access from Addison Street, linking Shellharbour Road to the BHP.

Public access will be provided around the boat harbour which will have edge conditions, including streets, boardwalk, pathways, and open space overlooked by housing, the town centre or hotel.

The precinct layout and design provides a high degree of permeability for pedestrians. Some of the harbour edges are reserved for pedestrians, not vehicles, to create areas of special character and water edge connectivity. Visual, pedestrian and cycle connectivity has been provided between the southern part of Shellharbour village and Shell Cove.

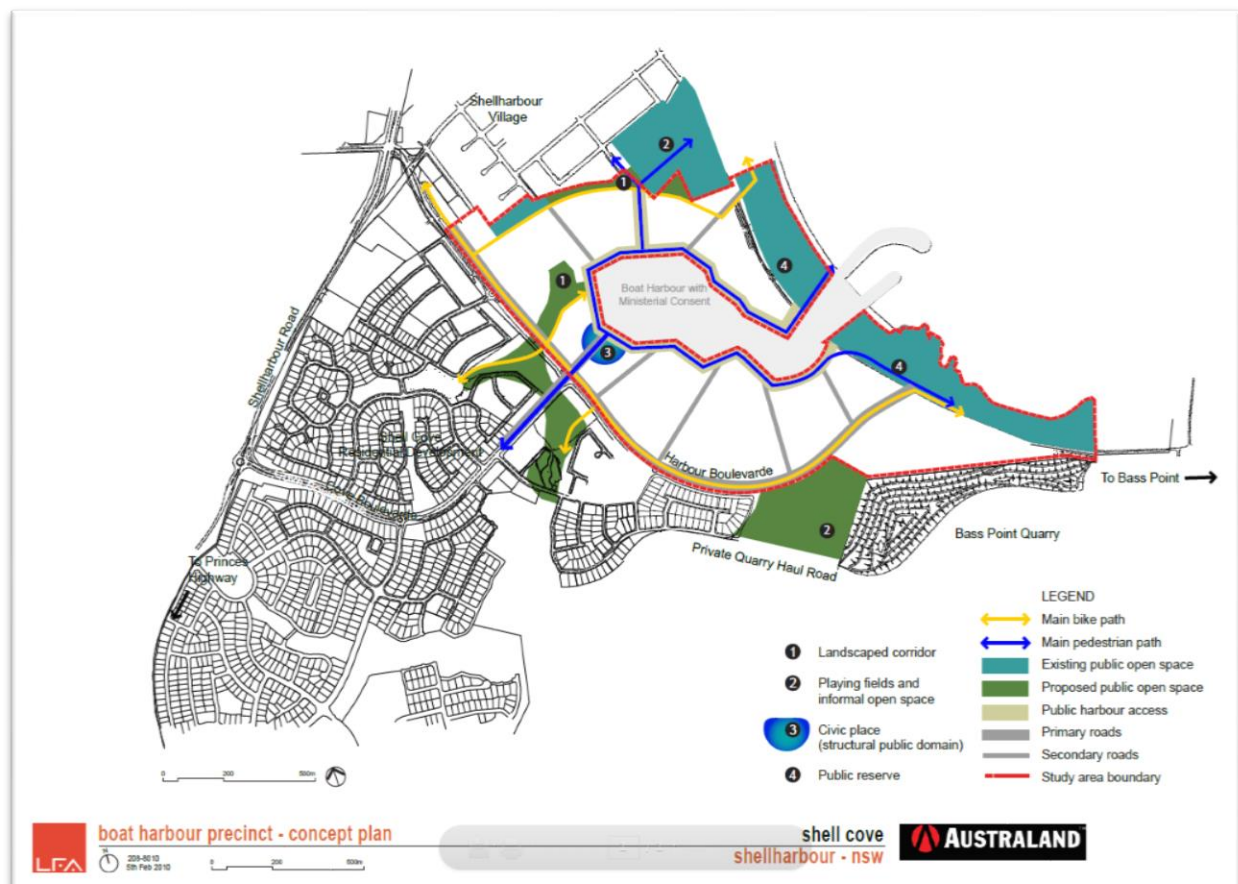


Figure 3 - Boat Harbour Precinct Concept Plan

The BHP Concept Plan will provide significant benefits to the community, including:

- a range of housing types in a coastal environment complemented by commercial, retail and employment uses;
- employment opportunities for around 2,800 people;
- a commercial/retail hub to support the wider Shell Cove project;
- land-based service and facilities to support the approved marina; and
- public access around the marina with pedestrian links to the existing Shellharbour village.

The terms of the approval are as follows:

Part A – Terms of Approval

1. Approval for the Boat Harbour Precinct

Except as modified by this approval, Concept Plan approval is granted only to the carrying out of development within the Concept Plan area as listed below and in more detail in Shell Cove Boat Harbour Precinct Concept Plan Application and Environmental Assessment, 26 February 2010, as amended by the Preferred Project Report:

- (a) Up to 1,238 dwellings with a total gross floor area of approximately 150,000m² comprising single dwellings, medium density and apartments;
- (b) a business park with a maximum gross floor area of 30,000m²;
- (c) retail/commercial/hotel/community development with a maximum gross floor area of 22,000m²;
- (d) public open space and wetlands; and
- (e) associated drainage, stormwater infrastructure and roads.

2. Approved Plans and Documentation

The project shall be generally in accordance with the following plans and documentation:

- (a) Shell Cove Boat Harbour Precinct Concept Plan Application and Environmental Assessment, dated 26 February 2010, prepared by LFA (Pacific) Pty Ltd, including Volumes 1 and 2 and Appendices A to P;
- (b) Shell Cove Boat Harbour Precinct Preferred Project Report, dated November 2010 prepared by LFA (Pacific) Pty Ltd, including Appendices 1 and 2; and
- (c) Statement of Commitments (Schedule 4).

except as otherwise provided by the terms of this approval.

Figure 4 - Concept Plan Terms of Approval

The BHP Concept Plan approval including plans and documents can be found at <http://majorprojects.planning.nsw.gov.au/>

The BHP is the centre-piece of the wider master-planned Shell Cove project of which the suburban areas have been substantially developed. The BHP is the future retail and commercial hub of the wider Shell Cove residential development

The Boat Harbour Project is a joint venture between Frasers Development Pty Ltd (formerly Australand Corporation Pty Ltd) and Shellharbour City Council.

3.1.4 Determining Body

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 \$ 10,070,000.00.

Pursuant to Clause 4 of Schedule 4A, the Panel is the determining authority for Council related development over \$5M. In this case Council owns the land which the application relates. The applicant for the proposal is Frasers Pty Ltd (formerly Australand).

3.2 Development Consent History

The following development consents have been granted and development applications lodged within the project area:

Table No. 2 – Consent History

JRPP No.	Consent No.	Determined	Description
N/A	DA95/133	26/11/1996	Boat Harbour and 350 Berth Marina
2013STH027	DA411/2013	3/11/2014	Precinct B1 & C1 - 88 residential lots, 14 super-lots, parkland, open space links, local streets and laneways, to be carried out in four stages
2015STH026	DA651/2015	12/01/2016	23 dwellings & 23 lot Torrens title subdivision on proposed lots 97 & 88 (Precinct B1)
2016STH007	DA12/2016	Under Assessment	Retail Component of Shell Cove Boat Harbour Precinct Comprising of Supermarket, Liquor Tenancy, Specialty Stores, Retail Plaza, Carpark & Signage
2016STH015	DA100/2016	Under Assessment	Construction of 40 Townhouses with Garages and Landscape Works and 40 Lot Torrens Subdivision
2016STH015**	DA100/2016**	Under Assessment	Construction of 24 Townhouses with Garages and Landscape Works and 24 Lot Torrens Subdivision
N/A	DA143/2016	Under Assessment	Subdivision to Create Three Lots (Lots 2,3 & 4), Three Residual Lots (Lots 5,6 & 7), Create Public Roads 10, 11 and 12 & Construction of Landscape and Public Square

N.B. ** - Denotes subject DA

3.3 Development Application Chronology

- Development Application No. 00100/2016 lodged on 23 March 2016
- DA advertising / notification period from 07 April 2016 to 07-April 2016 (21 days)
- JRPP Site Inspection and preliminary briefing on 16 March 2016
- Applicant submitted amended plans on 19 September 2016

4 SURROUNDING LAND AND SITE CONTEXT

4.1 The Locality

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.

4.2 Existing Site Features

The concept approval project site sits behind the approved boat harbour and marina where construction has commenced. The BHP will provide supporting land based facilities for the marina and a range of residential and employment uses as part of the wider Shell Cove project.

The concept approval site:

- has an area of 100ha and extends inland from Shellharbour South Beach which forms the eastern boundary.
- is generally low lying and partly swampy and is behind a coastal dune system which runs parallel to the ocean frontage.
- is generally below RL 5m AHD except for the southern elevated portion which is at RL 28m AHD.



Figure 5 – Aerial Photograph – Construction of Boat Harbour Precinct



Figure 6 – Oblique Aerial Photograph (BHP) – View North



Figure 7 – Oblique Aerial Photograph (BHP) – View South

The land slopes towards the approved boat harbour which has an elevation approximate to sea level.

The land to the west comprises the balance of the Shell Cove project, and is primarily residential.

To the south of the site is Bass Point Quarry which produces up to 6,000 tonnes of basalt daily. Basalt is shipped and trucked (along the private quarry haul road) to Blackwattle Bay, Sydney.

To the east of the quarry is Bass Point Reserve and the adjacent Bushrangers Bay Aquatic Reserve.

Further south is Killalea State Park, a Crown reserve covering an area of about 265 ha.

The eastern boundary of the site is formed by Shellharbour South Beach. To the north is the Shellharbour village and surrounding residential development.

4.3 Strategic Context

The BHP is identified as key employment land in the Illawarra Regional Strategy (IRS) with opportunities for conference, events and accommodation to strengthen growth in tourism. The Illawarra Urban Development Program (IUDP) underpins the IRS and provides a framework to manage and co-ordinate new housing.

In accordance with the IUDP, a total of 845 dwellings are expected around the future marina at Shell Cove. The development of the BHP is important in achieving the employment and housing targets for the Illawarra Region. The project also satisfies a key priority in the NSW Government State Plan (2010) by supporting business investment and jobs.

Since the Minister's 1996 approval, Council commissioned a range of further studies and investigations to support the detailed design of the boat harbour/marina complex. This resulted in a number of changes to the design of the complex. The consent has been acted upon with works on the boat harbour/marina well commenced, including the compensatory wetlands at Myanbar that were completed and opened by on 4 August 2006.

The construction of the boat harbour is expected to be connected to the ocean towards the end of 2018.

The larger development proposal by Council and Frasers (formerly Australand) for the wider Shell Cove area comprises a residential estate and golf course. The residential component comprises ten staged releases of residential lots. The last of these stages, known as Stage 10, was registered in February 2015.

4.4 Site Description

The development site is to unregistered lots 2236 and 2237 in provisional DP1203745 within residential precincts B1 and C1, but the land is legally described as Lot 1279 DP 1175512. DA 411/2013 was approved by the JRPP on 3 November 2014 for the subdivision of Precincts B1 and C1.

The DA 411/2013 involved the residential subdivision of Lot 1279 DP1175512 to create 88 residential lots, 14 super-lots, parkland, open space links, local streets and laneways, to be carried out in four stages.

The lots are generally regular shaped with is access internal roads described as Street 1 and Lane 7. The site also fronts the Harbour Boulevard but access is denied along this road.

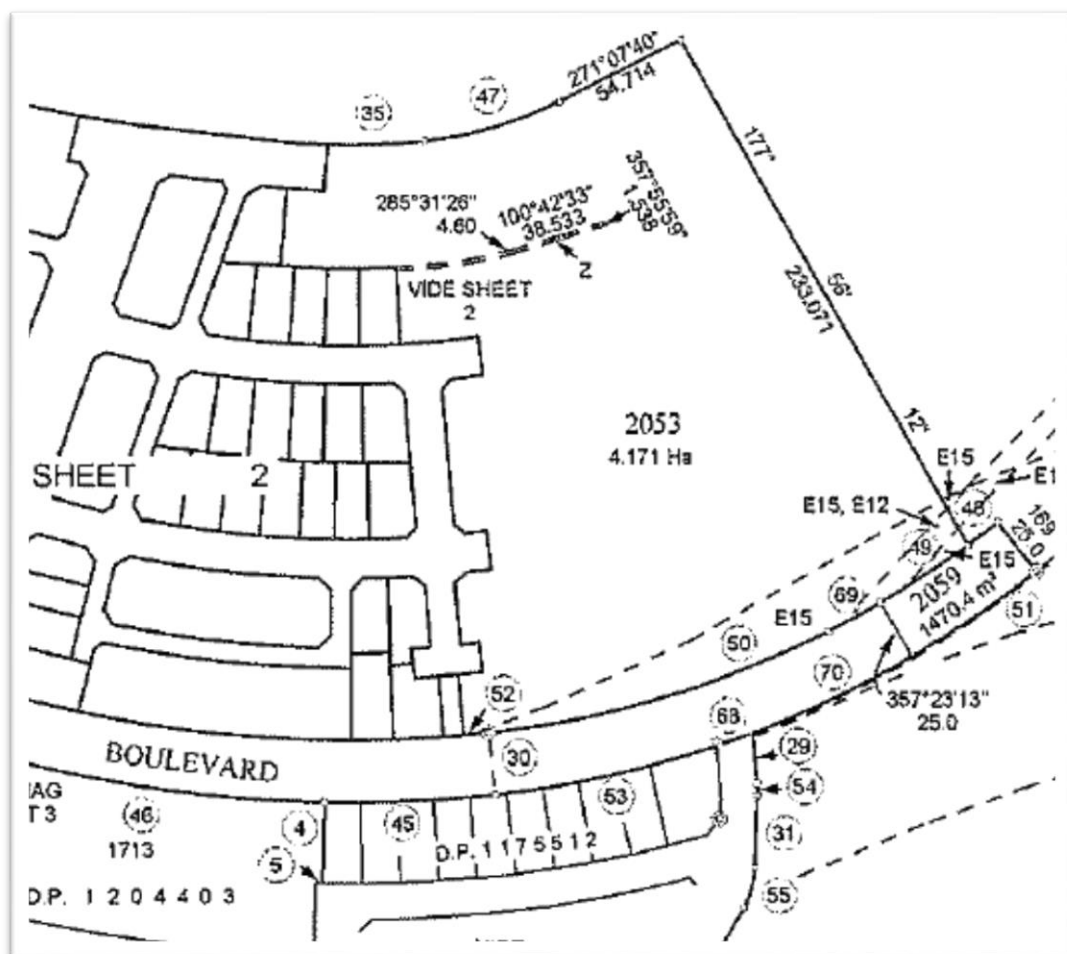


Figure 8 – Draft Deposited Plan of Subdivision

The site is located at the fringe of the new master planned area as well as to the developing boat harbour precinct, with the more traditional estate of Shell Cove to the west.

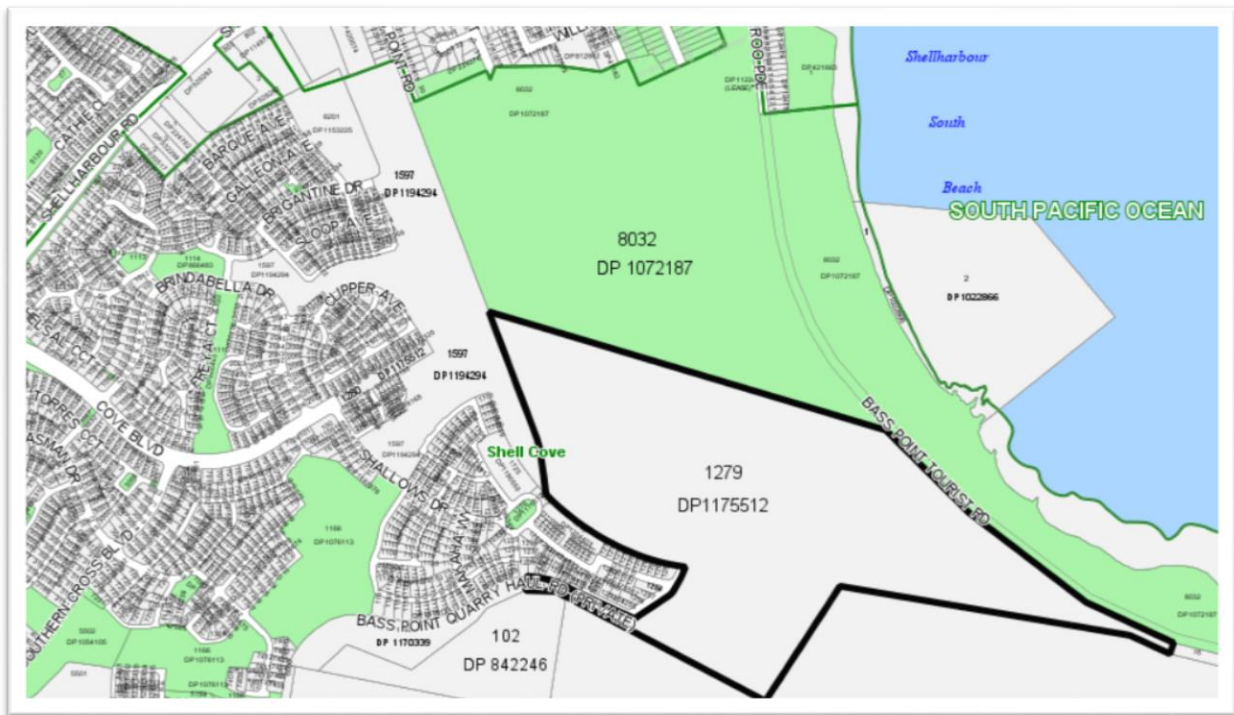


Figure 9 – GIS Plan

The location of Precincts B & C1 are shown below:



Figure 10 – Concept Approval/Aerial Photograph Overlay

The proposal is lodged on 2 of the 14 unregistered super-lots approved in the DA411/015 for Precinct B1 and C1.

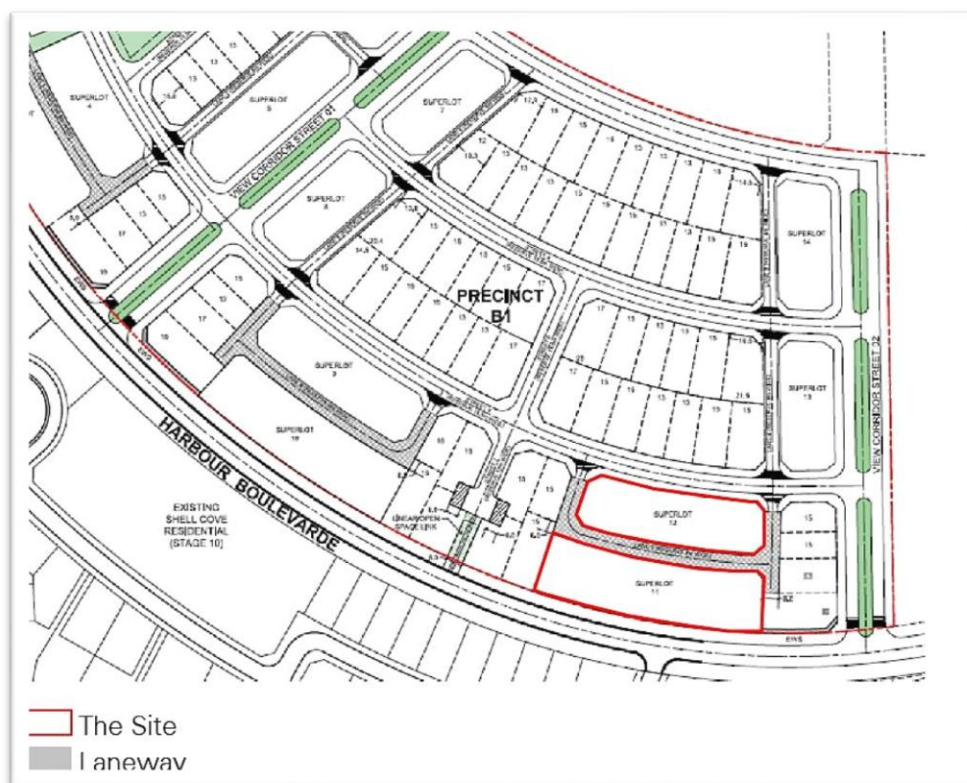


Figure 11 – Unregistered Subdivision Layout (approved by DA411/2013)

A copy of the approved DA plans for Precinct B and C showing the site of the subject development application is provided below:

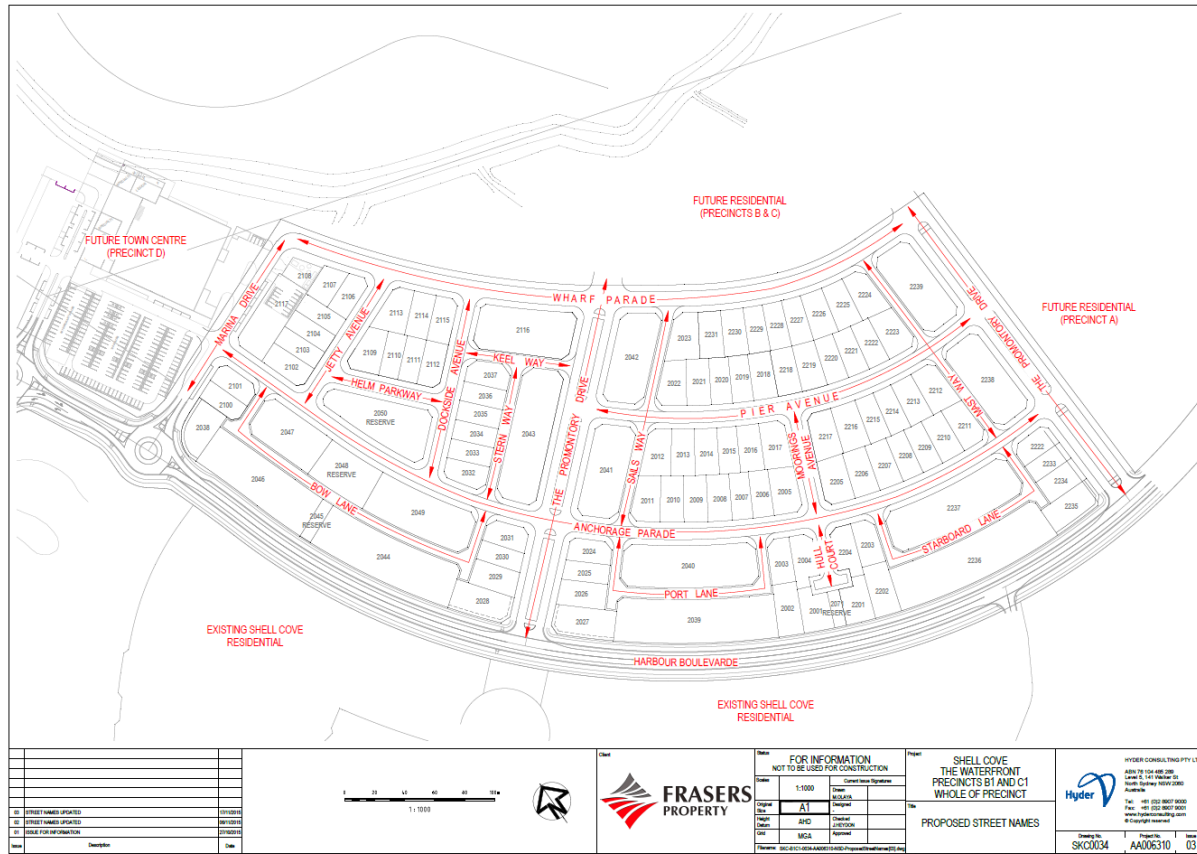


Figure 12 – Subject Site (unregistered lots 2236 and 2237)

5 THE PROPOSED DEVELOPMENT

The proposed development seeks to construct 24 dwellings and 24 lot subdivision creating a dwelling on each lot in a 2 staged sequence. The development will comprise a mixture of semi-detached, attached dwellings, 3 of which incorporate a secondary dwelling above the garage.

The following table provides a numerical breakdown of the proposal in relation to lot size, gross floor area, number of storeys, private open space area, landscaped area, site coverage and parking.

Table No. 4 – Development Metrics

Stage Reference	Lot	Subdivision sought under this DA	Lot Size (m ²)	GFA	No. Storeys	Private Open Space (m ²)	Landscaped Area (m ²)	Site Coverage %	No. Car Spaces	House Type
99	CN9901	✓	269.8	202.2	2	46.9	127.8	52.6	2	Semi-detached
	CN9902	✓	300.2	261	2	46.3	143.8	52.1	3	Semi-detached + ADU
	CN9903	✓	231.7	160.6	2	51.7	117.2	49.4	2	Attached
	CN9904	✓	227.1	199.5	2	43.4	85.8	62.2	2	Attached
	CN9905	✓	231.7	159.9	2	52.4	110.5	52.3	2	Attached
	CN9906	✓	231.8	160.6	2	51.8	110.9	52.2	2	Attached
	CN9907	✓	254.3	252.9	2	38.7	102.7	59.6	3	Attached + ADU
	CN9908	✓	230.2	160.7	2	51.1	115.7	49.7	2	Attached
	CN9909	✓	233	159.9	2	51.4	111.8	52	2	Attached
	CN9910	✓	226.2	199.5	2	40.2	84.9	62.5	2	Attached
	CN9911	✓	235.8	160.6	2	52	121.3	48.6	2	Attached
	CN9912	✓	279.3	202.1	2	73.1	136.8	51.0	2	Semi-detached
	CN9913	✓	274.9	202.1	2	62	132.4	51.8	2	Semi-detached
100	CN10001	✓	362.3	205.1	2	101.2	218.2	39.8	2	Small Lot Housing
	CN10002	✓	284	256.8	2	28.3	129.7	54.3	3	Attached + ADU
	CN10003	✓	182	157.7	2	35.8	62.6	65.6	2	Attached
	CN10004	✓	238.4	161.1	2	47.5	120.7	49.4	2	Attached
	CN10005	✓	272.2	174.3	2	84.1	167.6	38.4	2*	Semi-detached
	CN10006	✓	272.4	175	2	88.5	167.6	38.5	2*	Semi-detached
	CN10007	✓	234.6	159.3	2	45.6	119.6	49.0	2	Attached
	CN10008	✓	182.1	159.2	2	35.3	66.0	63.8	2	Attached
	CN10009	✓	163.7	99.2	2	31.8	85.4	47.8	1	Attached
	CN10010	✓	170.4	122.4	2	28	97.1	43.0	1*	Garden Studio
	CN10011	✓	177.2	122.4	2	28.7	103.9	41.4	1*	Garden Studio

5.1 Staging CC, OC, SC

The proponent has requested that the consent be drafted to enable staged issue of construction certificates, occupation certificates and subdivision certificates.

Further, the proponent has requested that the conditions be drafted to enable the release of the subdivision certificates prior to the issue of an occupation certificate to enable the registration process to commence with Land and Property Information in advance of the completion of the dwelling so that the settlement is not unnecessarily delayed.

There are a number of risks associated with this approach as follows:

- Works as Executed Plans must to comply with Development Consent 411/2013, and if defects emerge, rectification works may affect the position of lot boundaries and associated infrastructure
- Location of lot boundaries cannot be confirmed until registration of deposited plan with respect to the survey set out for build which may create encroachments that would need to be remedied

These risks are reasonably mitigated by the fact that the underlying subdivision, the road network, utilities infrastructure, and multi-dwelling housing proposal are all being managed and constructed by the proponent. Due to these risks it is recommended that:

- a. The consent be issued as a deferred commencement consent until such time as the subdivision approved under DA411/2013 is registered, after which an operational consent may be issued.
- b. Operationalizing the consent is dependent on the registration of the provisional DP 1203745
- c. Issue of the Subdivision Certificates once a constructed wall height of 1.0 metre is reached for each of the dwelling on each of the lots.

5.2 Subdivision

The subdivision of Lot 1279 DP 1175512, as part of the Development Consent No. 411/2013 will create DP 1203745 which will include the subject lots 99 and 100. LPI have listed the lot numbers starting from 2001.

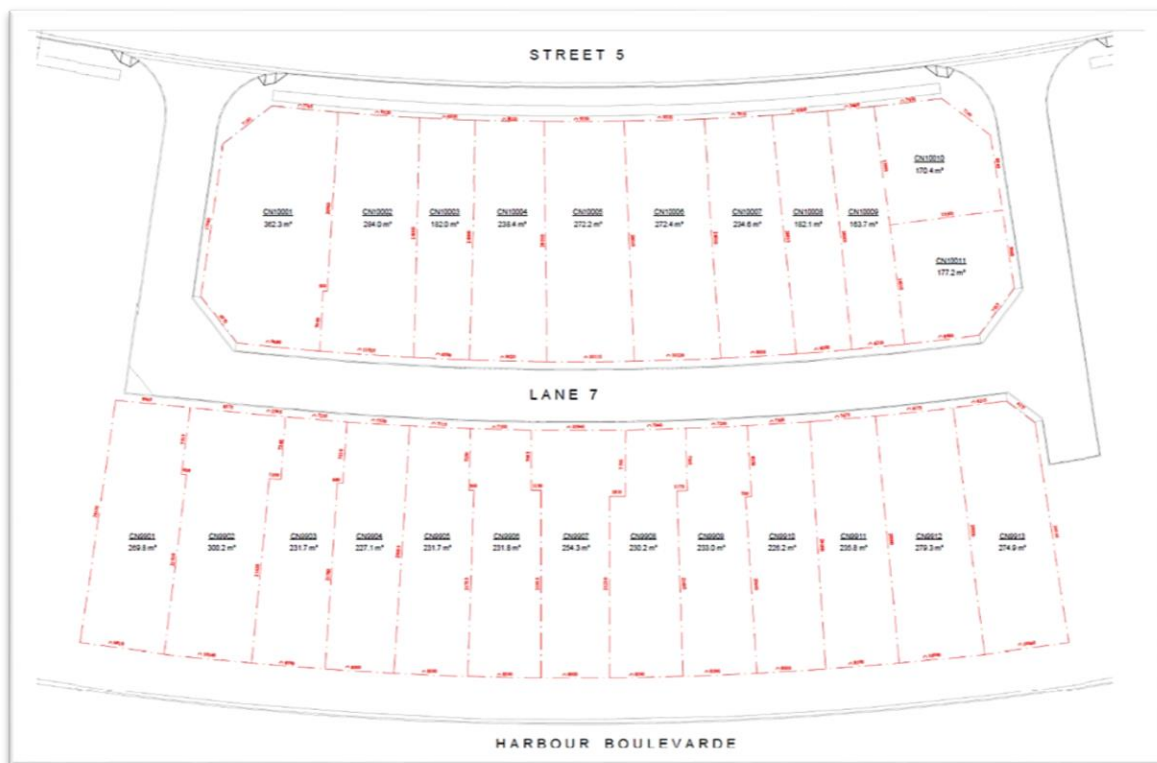


Figure 13 – Subdivision Plan

Lots 99 will be registered as lots 2236; and 100 will be registered as lots 2237, respectively, in DP 1203745. Both lot references have been referred to interchangeably in the supporting information.

The site areas provided range from 163.7m² to 362.3m² and Torrens Title subdivision of the proposed allotments is proposed as part of the DA.

5.3 Tree Removal

Nil

5.4 Siting

The dwellings are sited as shown below in Figure 14.

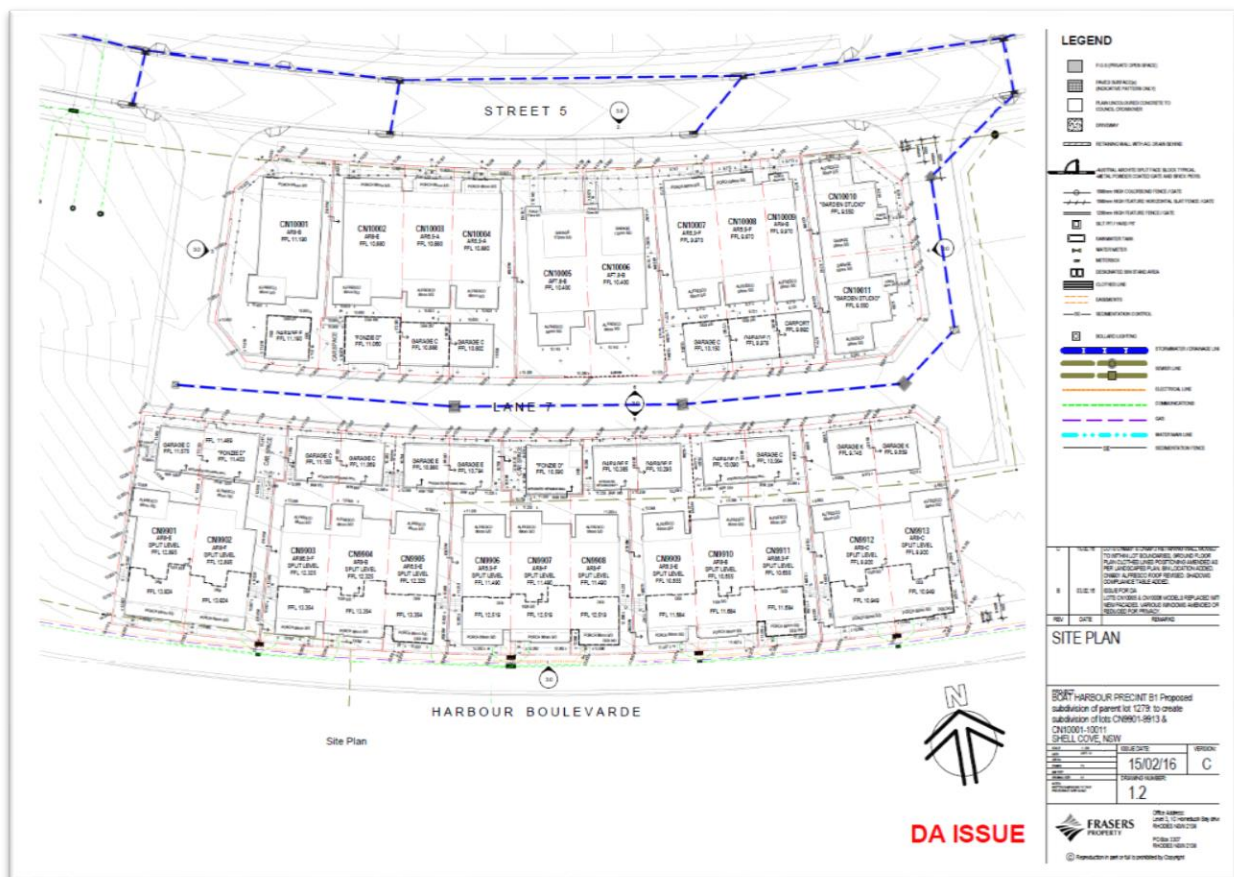


Figure 14 – Indicative Layout (unregistered Lot 99-100)

5.5 Built Form

5.5.1 Design Theme

The character of each of the proposed dwellings:

- is of a contemporary architectural style and character;
- is appropriately designed to respond to the microclimate including sun, shade, breeze and general weather;
- relates well to and forms a good interface with the overall subdivision, road and open space layout;
- incorporates appropriate durable and high quality materials, textures, forms and colours that will also complement the local landscape; and
- includes opportunities for indoor/ outdoor relationships.

5.5.2 Building Typologies

The following dwelling typologies are proposed:

5.5.2.1 Attached Dwellings

Attached dwellings have been designed as groups of three dwellings in a terrace format, and have been visually differentiated through materials, roof forms, and building articulation. The application provides for 15 attached dwellings that each have a distinct identity when viewed from the public domain. Each dwelling is independent, and has been proposed as 'abutting' to the adjacent dwellings within the set. All of the dwellings are provided with garages.

The attached dwellings will be located at Lots 9903-9905, 9906-9908, 9909-9911, 10002-10004, and 10007-10009.

5.5.2.2 Semi-detached Dwellings

The proposed semi-detached dwellings will share a common wall which separates the lots. The proposal provides for 6 semi-detached dwellings. The dwellings are also provided with garages and have also been designed to have a distinct identity when viewed from the public domain. The semi-detached dwellings can be found at Lots 9901-9902, 9912-9913, and 10005-10006.

5.5.2.3 Attached Dwellings (Garden Studios)

Garden studio are attached duplexes located on corner lots with splays. The proposal provides for 2 garden studios. This type of dwelling is located at CN9102, CN9101, CN9209 and CN9210.

5.5.2.4 Studio Dwellings ("Fonzie Flats"- Secondary Dwellings)

Studio Dwellings or Fonzie Flats are secondary dwellings on the same lot as the primary dwelling house. Each of the proposed 3 ADUs are located above the garage at the rear of the respective allotments, and will provide passive surveillance over internal roads.

The proposed studios have direct access from the adjacent internal roads, with individual outdoor car spaces provided for each. The garages are adjacent to, but not internally connected with, the garages of the respective principal dwellings on each site.

This type of dwelling has been provided at Lots 9902, 9907, and 10002.

5.5.2.5 Small Lot Housing

A detached 'Small Lot Housing' dwelling is located on Lot 10001. This single dwelling does not have any shared or abutting walls with the adjacent dwellings. Likewise to all other development in this application, the dwelling also provides vehicle access at the rear.



Figure 15 – Front and Side Elevation



Figure 16 – Indicative Perspectives



Figure 17 – Elevations

5.5.3 Materials and Finishes

In accordance with the Part 3A Concept Plan and DGMDH the proposed materials and finishes are of lightweight construction and reflect a coastal pallet, with muted and natural tones and natural finishes, to ensure the proposed development is sympathetic with its environment. Streetscape and External Colour details are shown in Figure 13 below.

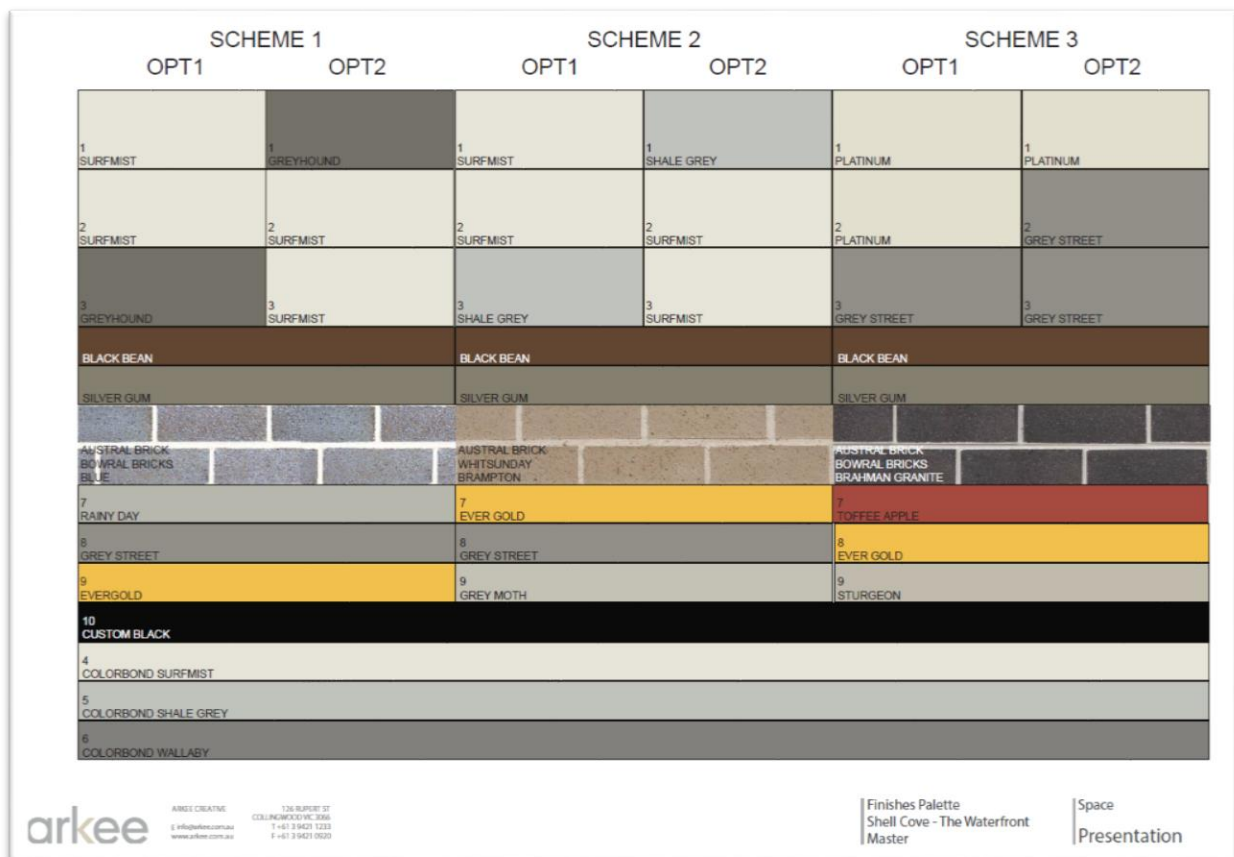


Figure 18 – Materials and Finishes Palette

5.6 Utility Services

All dwellings, are provided with either one or two car parking spaces. Pedestrian access to each dwelling is proposed via the surrounding road network which will contain footpaths as part of the road reserve and under DA 411/2013.

5.10 Waste Management

A Waste Management Plan was prepared to ensure the appropriate management of waste during the construction and operational phases of the proposed development in relation to DA 411/2013. The construction and waste management of the subject DA can be conditioned to ensure appropriate compliance with waste management standards.

5.11 Landscape Treatment

Private landscaping works are detailed in the landscape plan (Figure 20). This plan outlines the proposed vegetation design and structure to ensure a satisfactory landscape outcome is achieved. Streetscape planting for the proposed roads is approved under DA 411/2013.

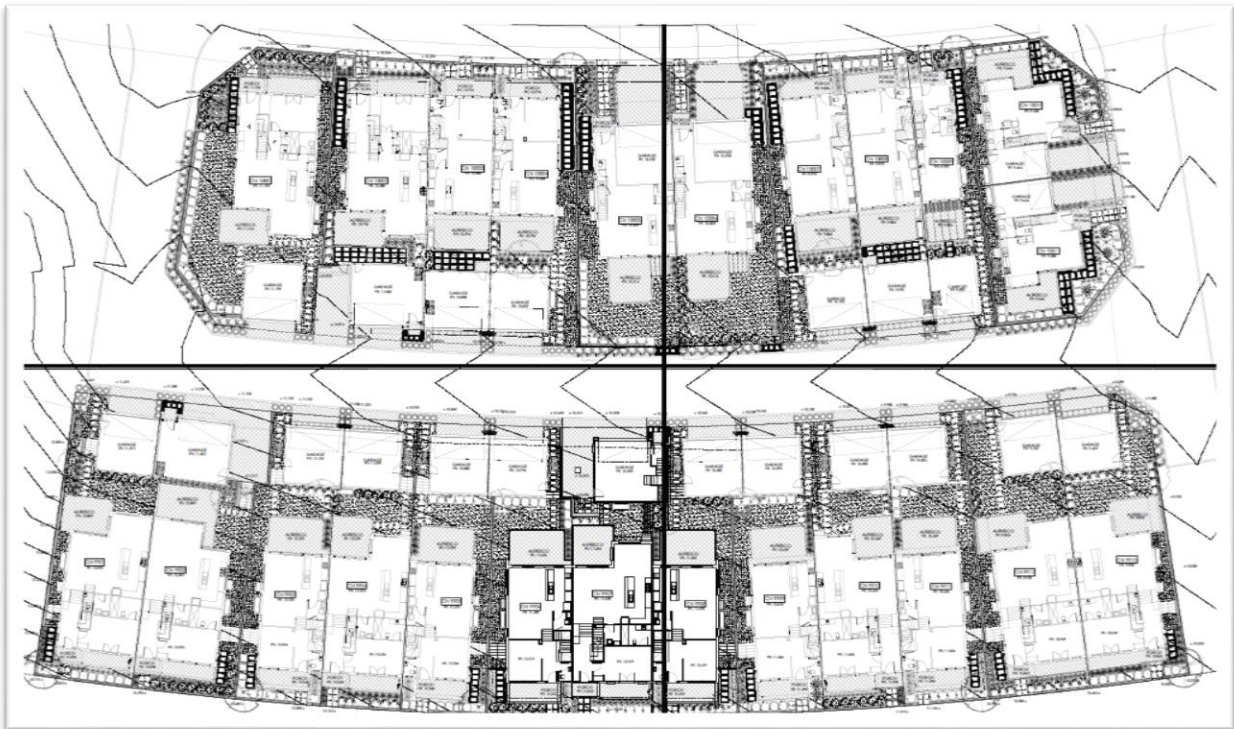


Figure 20 – Landscape Concept Plan

5.12 Amended Plans

Amended plans were submitted on 19 September 2016 to improve vehicle maneuvering and garage geometry as shown below at Figure 21

Council development engineers have reviewed the amended information and advised as follows:

Each of the proposed units accesses their respective parking provision, a mix of single and double garages, from a 6m wide public laneway.

All of the single garages have a door jamb width of 2.4m. While this does not comply with the DCP, which requires a minimum door jamb width of 2.75m where a vehicle has to turn into the garage, the proposal provides an effective access aisle width of 7+ m, and complies with the Australia Standard with a minimum door jamb width of 2.4m.

Further, the applicant has provided turning swept paths which illustrate that vehicles can enter and exit, both the single and double garages, in a single movement.

Therefore, the design is compliant in regards to access.

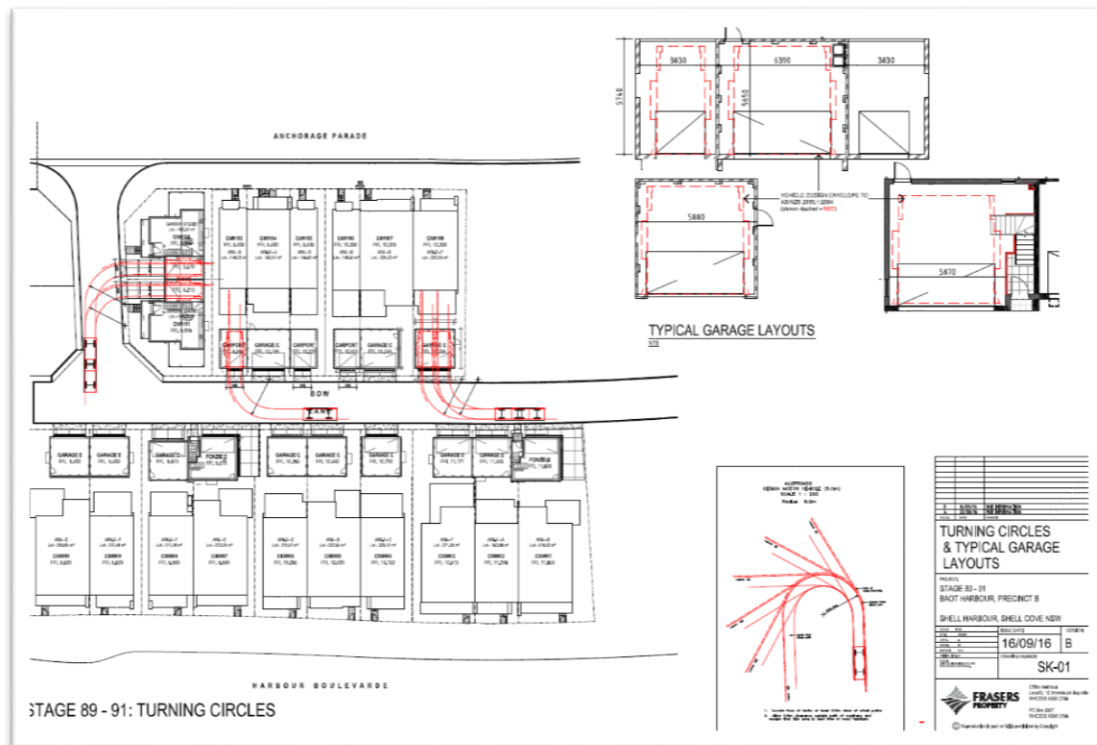


Figure 21 – Amended Vehicle Maneuvering Plan

6 STATUTORY FRAMEWORK

This application has been assessed in accordance with Section 79C of the Act. The following comments are made with respect to the proposal:

6.1 Planning Controls

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

- Environmental Planning and Assessment Act Part 3 A Concept Approval - MP07_0027
- State Environmental Planning Policy No 55 – Remediation of Land
- State Environmental Planning Policy 71 – Coastal Protection
- State Environmental Planning Policy (State and Regional Development) 2005
- State Environmental Planning Policy (Affordable Rental Housing) 2009
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Infrastructure) 2007
- Shellharbour Local Environmental Plan 2013
- Shellharbour Development Control Plan 2013
- Shellharbour City Council Section 94 Contributions Plan 2013.
- Building Design Guidelines

6.1.1 Environmental Planning Instruments and Concept Approval

The Environmental Planning and Assessment Act (the Act) includes provisions that apply to development for which a concept plan has been approved under Part 3A. Part 3A of the Act has since been repealed.

Clause 3B within Schedule 6A of the Act relates to the repeal of Part 3A, and includes the following relevant provisions that apply to the subject development:

- 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. *any development standard that is within the terms of the approval of the concept plan has effect*
- c. *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*
- d. *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*
- e. *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.*

In relation to these provisions the following considerations have been made:

- The Multi-dwelling development and subdivision is permissible in the R3 medium density zone, and otherwise consistent with the Concept Approval.
- There are two development standards in the concept plan terms of approval relevant to the development proposal (i.e. a maximum of 1238 dwellings with a gross floor area of approximately 150,000 m²).

This equates to an average gross floor area of 121 m² per dwelling across 1238 dwellings.

Neither of these limitations are breached by the proposal with 24 dwellings proposed being the first to be approved in the project, with a combined GFA of 5787.5 sqm.

- The assessment of the development proposal indicates that the proposal is generally consistent with the Terms of the Concept Approval. Refer to Section 7.10.1 and Attachment 2 for detailed comments and analysis regarding compliance.
- There are a number of requirements within SLEP 2013 that result in a non-compliance. These matters are as follows:

- SLEP 2013 – Clause 4.1B – Minimum Lot Size

The site areas provided range from 163.7m² to 362.3m² in area. The minimum lot size in the LEP is 200m².

- SLEP 2013 – Clause 4.4 – Floor Space Ratio (FSR) R3 Zone - 0.7:1

The proposal includes an FSR of 0.738:1

6.2 Public Exhibition

The DA was publicly notified for a period of 21 days in accordance with Council's Development Control Plan between 4-24 May 2016.

Nil submissions were received.

6.3 Consultation

During the assessment of 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.

6.3.1 Council Internal Referrals

In summary internal referrals were made to the following officers:

- Section 94 Accountant
- Development & Subdivision Engineer
- Landscape Technical Officer
- Community Safety Officer & Community Planner
- Waste Management Officer

6.3.1.1 Section 94 Accountant

A monetary contribution for community infrastructure and services is to be paid in accordance with *Shellharbour Section 94 Contributions Plan 2013*. The developer will dedicate land and embellishment in lieu of a monetary contribution toward passive open space embellishment. These requirements form part of the recommended conditions; refer Attachment 1.

6.3.1.2 Development and Subdivision Engineer

The civil works and management thereof to minimise any environmental impacts, road design, drainage and traffic have been assessed as acceptable subject to conditions being imposed on any development consent.

The flood assessment study (required by condition D7 of the Concept Plan approval) indicated that the residential lots of precincts B1 and C1 will not be flood affected.

Refer to the conditions of Attachment 1.

6.3.1.3 Landscape Technical Officer (LTO)

The submitted landscape plans for the development have been reviewed by Council's LTO and approval recommended. Recommended conditions are included in the attached conditions; refer to Attachment 1.

6.3.1.4 Community Safety Officer & Community Planner

The social impact of the proposal and an assessment of the proposal against the principles of the Crime Prevention Through Environmental Design has been undertaken. Relevant conditions have been included in the recommended conditions; refer to Attachment 1.

6.3.1.5 Waste Management

The waste management officer has assessed the proposal and noted that waste services will not be available from Harbour Boulevard or view corridor streets. The proposed dwellings fronting Harbour Boulevard will have the waste collected from the rear lane, and sufficient area exists for bins to be placed without obstructing the functioning of the laneway. No objection to the proposal is raised subject to conditions. Relevant conditions have been included in the recommended conditions; refer to Attachment 1.

6.3.2 Referrals to External Agencies

External referrals were not made to external agencies.

6.3.3 Political Donations/Disclosures

None made.

7 ASSESSMENT

7.1 Environmental Planning Instruments [s.79C(1)(a)(i)]

7.1.1 SEPP No 55 – Remediation of Land (SEPP 55)

The aim of SEPP 55 is to provide for the remediation of contaminated land for the purpose of reducing the risk of harm to human health or environment and requiring that any remediation work meet certain standards and notification requirements.

The proposal will not undermine the objectives of this Policy. A Phase 2 site contamination assessment of the BHP was submitted with the preferred planning report for the Concept Plan application and concluded that a remedial action plan was required for the former golf course and at the location of a former farm structure. The lands within precincts B1 and C1 do not contain the former golf course land nor the former farm structure and thus remediation works are not required.

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.

7.1.2 SEPP (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.

7.1.3 SEPP 71 – Coastal Protection

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*.

SEPP 71 applies to land and development within the coastal zone as defined by the *Coastal Protection Act 1979*. Precincts B1 and C1 are located within the coastal zone. SEPP 71 aims to protect the unique attributes of the NSW Coast by ensuring that flora and fauna are protected, heritage is conserved and that development is appropriate. In doing so it requires development to be assessed under a range of considerations (clause 8 and Part 4).

Part 5 is not relevant as the proposal relates to the subdivision and development of land which benefits from a Concept Plan approval under the then Part 3A of the Act.

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.

The proposal is considered to be consistent with the provisions of SEPP 71 given the design and layout of the proposal is generally consistent with the Concept Plan approval.

7.1.4 SEPP (Affordable Rental Housing) 2009

In broad terms, the aims of the SEPP seek to:

- to provide a consistent planning regime for the provision of affordable rental housing,
- to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards,
- to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation

A consent authority must not consent to development to which this Division applies unless:

- a. the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument, and
- b. the total floor area of the secondary dwelling is no more than 60 square metres or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area.

Notwithstanding the Part 3A Concept Plan approval takes precedence over the planning controls of SEPP (ARH) 2009 in the event of any inconsistency pursuant to Clause 3B to Schedule 6A of the Act.

7.1.5 Shellharbour Local Environmental Plan 2013 (SLEP 2013)

7.1.5.1 Zoning / Permissibility (Clause 2.3)

The land is zoned R3 Medium Density Residential.

The R3 zone permits, with consent, a range of residential uses, including dwelling houses, semi-detached dwellings and attached dwellings and secondary dwellings.

The development also seeks to subdivide land.

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

The R3 zone objectives as provided in the Land Use Table are:

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

Under clause 2.3(2) of SLEP 2013, the consent authority must have regard to the objectives for development in the zone. The proposed subdivision is consistent with the objectives of the land use zone.

The proposal is permissible development in the land use zone subject to development consent (clause 2.6) and the proposal is not considered to undermine the objectives of the land use zone.

Relevant clauses of Part 5 and 6 of SLEP 2013 have been addressed with the Concept Plan approval, with exception of heritage.

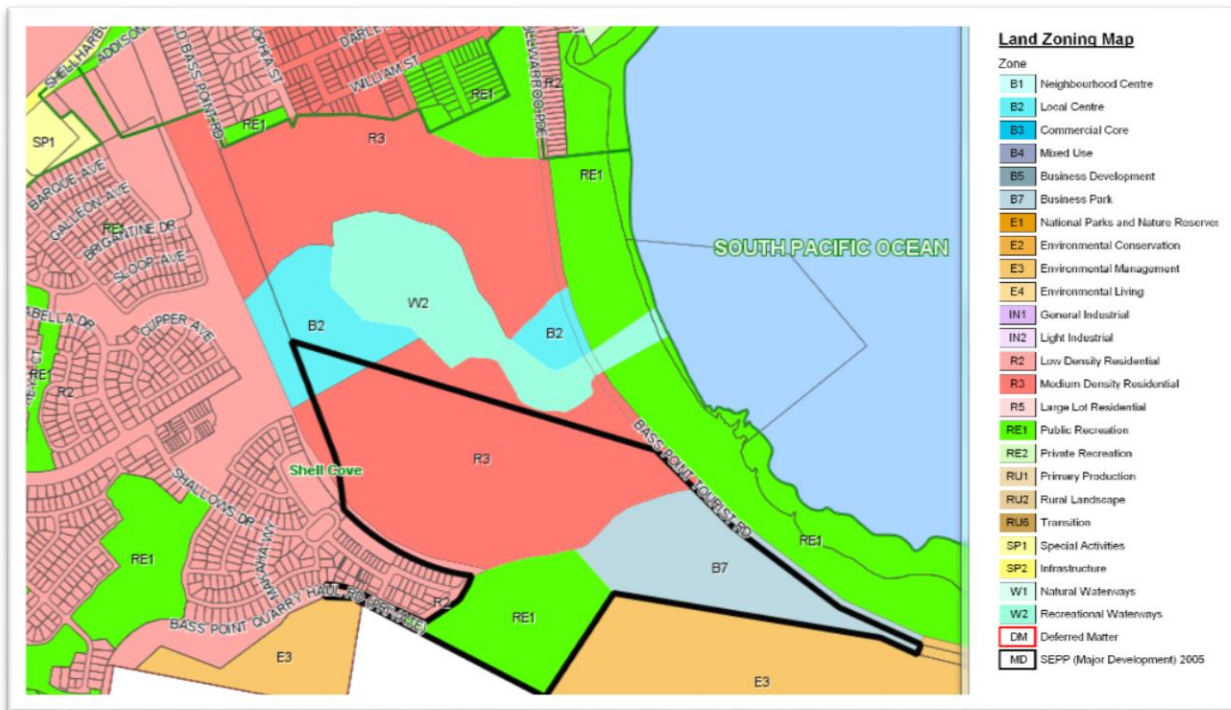


Figure 22 – SLEP 2013 Zoning Map

7.1.5.2 Minimum subdivision lot size (Clause 4.1)

Under this clause the minimum lot size to be created by subdivision in the R3 zone is 450sqm. By virtue of clause 4.1(4), this clause is applicable only to the Torrens title lots.

7.1.5.3 Exceptions to minimum lot sizes for certain residential development (Clause 4.1B)

The proposed development consists of 24 Torrens title lots which range between 163.7m² to 362.3m². 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:

- the subdivision of land into 2 or more lots, if the size of each lot is at least 200 square metres,
- development for the purposes of an attached dwelling, a semi-detached dwelling or a dwelling house on each lot resulting from the subdivision.

This provision is not met as the development seeks to construct the dwellings on the Torrens Title lots which are less than 200sqm in area.

However, a clause 4.6 variation is not required to be considered in this case because the provisions of Clause 3B to Schedule 6A of the Act provide that in the event of an inconsistency between the development standards contained in SLEP 2013 and MP07_0027, the Concept Plan prevails.

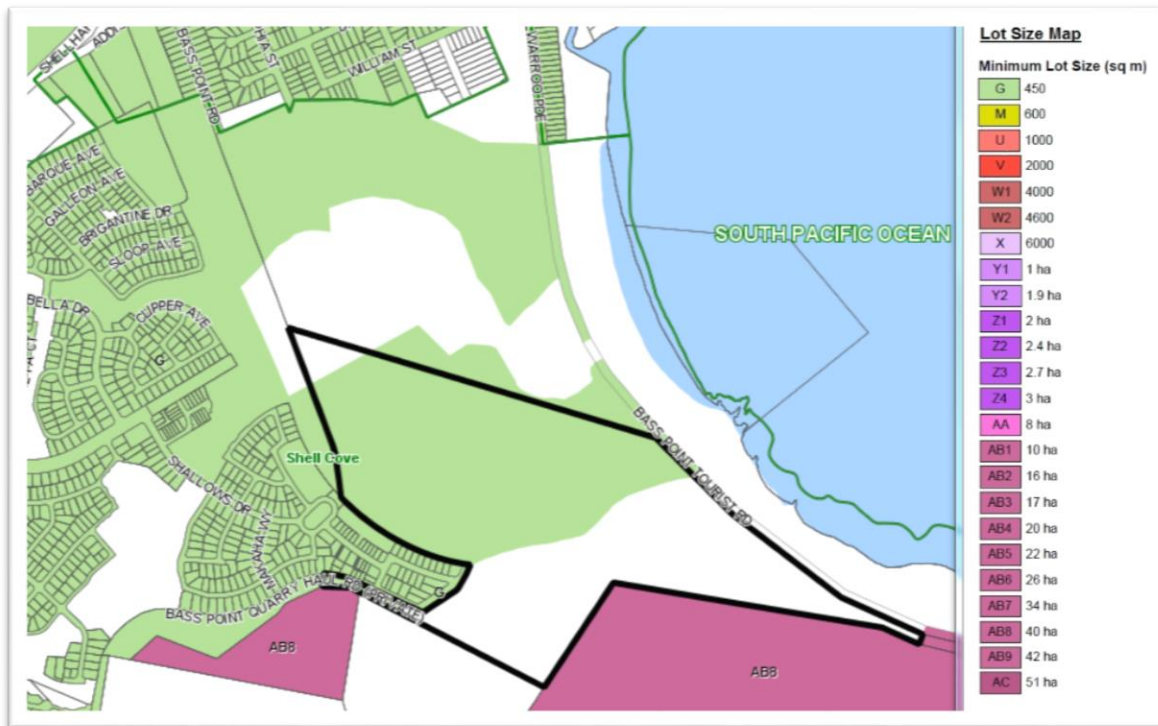


Figure 23 – LEP 2013 Lot Size Map

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

The minimum lot size is 600sqm. The smallest of the parent lot is 2559.5 sqm and therefore complies with this clause.

7.1.5.5 Exceptions to minimum lot sizes for certain residential development (Clause 4.1B)

Notwithstanding the provisions of Schedule 6A, with respect to clause 4.1B(3) of SLEP 2013 the proposed dwellings and associated subdivision layout is not consistent with the requirements of the clause; as the development proposes that 2 of the 24 proposed lots will have an area less than 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.

7.1.5.6 Building Height (Clause 4.3)

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



Figure 24 – LEP 2013 Height of Buildings Map

7.1.5.7 Floor Space Ratio (Clause 4.4)

Clause 4.4 of the SLEP 2013 provides a maximum floor space ratio (FSR) of 0.7:1 for the site. The proposed development has an overall gross floor area (GFA) of 4274.1sqm with a total site area of 5787.5sqm. This equates to an FSR of 0.738:1, which does not comply with the SLEP 2013 development standard.

Notwithstanding the Part 3A Concept Plan approval takes precedence over the planning controls of SLEP 2013 in the event of any inconsistency pursuant to Clause 3B to Schedule 6A of the Act, and a Clause 4.6 variation is not required to be considered.

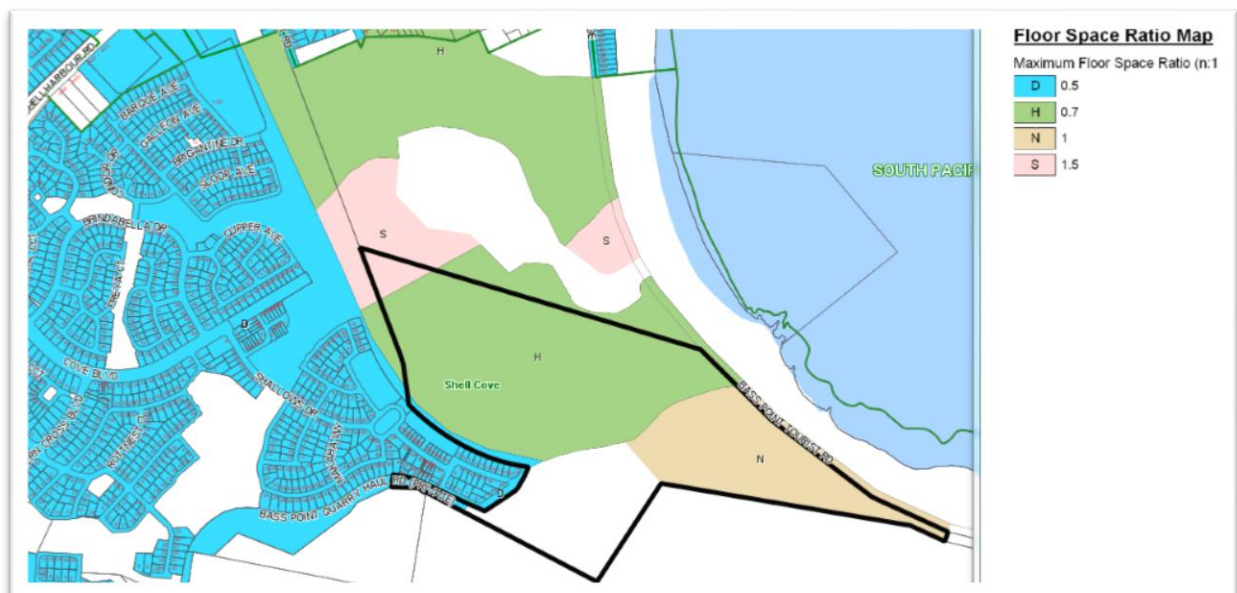


Figure 25 – LEP 2013 Floor Space Ratio Map

7.1.5.8 Development within Coastal Zones (Clause 5.5)

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.

7.1.5.9 Heritage Conservation (Clause 5.10)

The site does not contain any European heritage items, conservation areas or Indigenous places or objects. Aboriginal heritage significance was investigated as part of the Part 3A Concept Plan application and the archaeological sensitivity of the area was considered low.

The Director-General's Environmental Assessment Report of the BHP considers that the existing Aboriginal Heritage Impact Permit (AHIP), which includes the BHP site, and the Boat Harbour consent will provide appropriate management of Aboriginal objects during the excavation and construction of land surrounding the boat harbour.

Accordingly clause 5.10(1) heritage conservation objectives, are unlikely to be undermined by the proposal.

7.1.5.10 Acid Sulfate Soils (Clause 6.1)

Acid sulphate soil (ASS) were investigated as part of the Part 3A Concept Plan application and for most of the land to be developed, the risk of encountering ASS was low, however, the risk increased in the north-eastern corner of precinct B1 being lower lying.

In the north-eastern corner of precinct B1, the area is to be filled by some 2m of non ASS fill to the bulk earthworks levels. The Acid Sulfate Soil Management Plan (ASSMP) considers it unlikely and low risk that following construction of the Boat Harbour land platform up to the bulk earthwork level that ASS materials will be encountered.

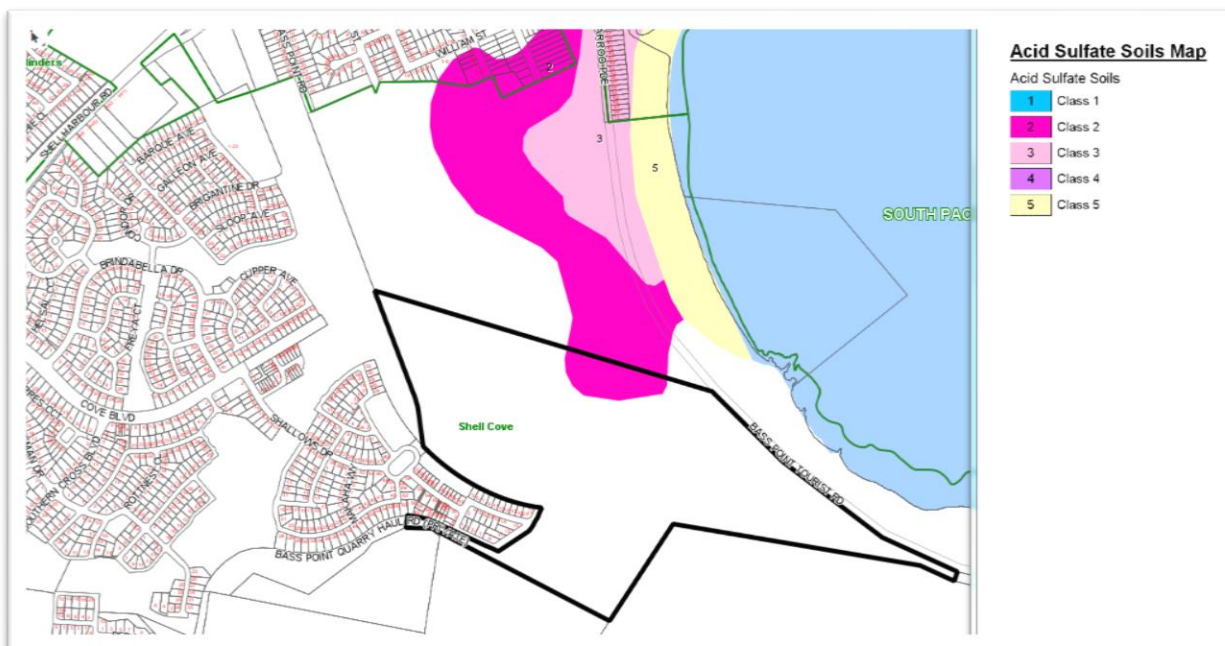


Figure 26 – LEP 2013 Acid Sulfate Soils Map

7.1.5.11 Earthworks (Clause 6.2)

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.

7.1.5.12 Flood Planning (Clause 6.3)

The flood risk assessment concluded that flooding would not impact on the residential lands of precinct B1 and C1 and the hazard risk for 'view corridor street 2', identified in the Part 3A Concept Plan consent flood management assessment, has been designed to address this.

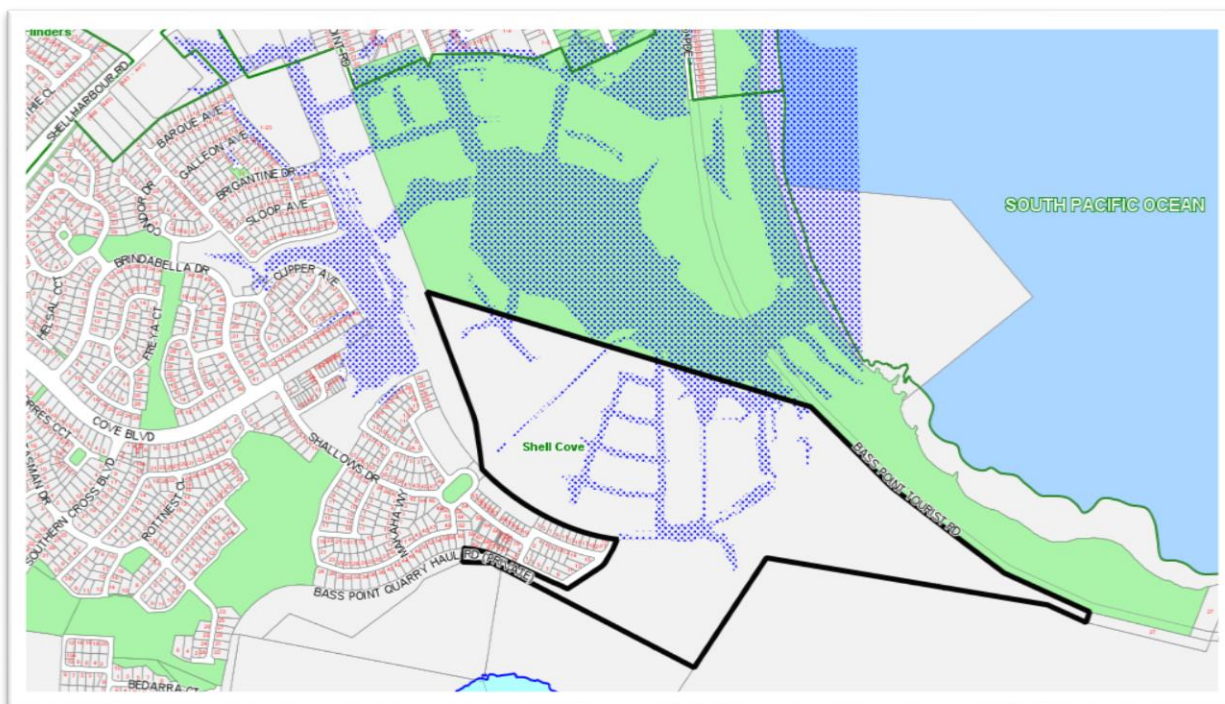


Figure 27 – Flood Prone Land Map

7.1.5.13 Stormwater Management (Clause 6.4)

The stormwater management plan includes a water sensitive urban design strategy for precincts B1 and C1 so as to achieve the stormwater quality targets of the overall Shell Cove development.

These targets include reducing post development pollutant to equal to and below pre-development loads, in addition to the water quality targets identified in the Boat Harbour Development Consent.

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.

7.1.5.14 Essential services (Clause 6.9)

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

7.2 **Draft Environmental Planning Instruments (EPI) [s.79C(1)(a)(ii)]**

There are no instruments applicable to this proposed modification.

7.3 **Shellharbour Development Control Plan 2013 [s.79C(1)(a)(iii)]**

7.3.1.1 Residential Development (Chapter 3)

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

Table 5 - DCP Chapter 3 Compliance Table

Section	Control	Proposal	Comply
3.2 Building Lines and Boundary setbacks	<p><i>Dwellings fronting Street 5.</i></p> <p>The control requires:</p> <p><i>two storey components to be setback 6m and provides an allowable encroachment of 1m for structures such as balcony's.</i></p>	<p>The second storey is setback no more than 3m 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 about 1m.</p>	No – Variation Accepted
	<p><i>Dwellings fronting Harbour Boulevarde</i></p> <p>The primary boundary of these lots will be from Harbour Boulevarde. The setback controls or 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 is 1m. 	<p>The two storey components are setback at 3m with a 2m encroachment for the second storey balcony.</p>	<p>No – Variation Accepted</p> <p>The non-compliance is 1m. This variation is considered acceptable as the balcony provides an architectural relief providing a design feature to the front façade.</p>
3.3 Streetscape and design for dwellings	<p>The control states:</p> <p><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>The Torrens Title dwellings will have garage door widths that exceed 50%.</p>	<p>No – Variation Accepted</p> <p>The visual dominance of the garage doors has been reduced by providing double fronted lots with access from a rear lane for the majority of the development. This ensures, that for the most of the development, the architecture of the front façade includes no</p>

Section	Control	Proposal	Comply
			garage doors, and presents positively in the streetscape.
<u>3.6 Fences</u>	<p>The control states:</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>a. Fences in front of the primary</p>	<p>The overall height of fencing varies from approximately 1.2m to 1.5m.</p> <p>The fence is made up of brick and vertical metal blades. Visual relief is achieved by the difference in heights and a gate that allows access to each of the dwellings.</p>	<p>No – Variation Accepted</p> <p>The proposed heights are attributed to both the topography of the land and.</p>
<u>3.14 Adaptable housing</u>	<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>	<p>No – Variation Accepted</p>

7.3.1.2 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:

- each lot created has direct full frontage to a public road,
- 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
- 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.

7.3.1.3 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

For resident spaces, the 24 dwellings would need 36 spaces in total

For visitor's spaces, the 24 dwellings would need 12 spaces in total. The development is compliant with this requirement and the spaces are equally distributed throughout the site.

The proposal provides 46 garage spaces and therefore generally complies with the occupant rates.

The torrens title lots includes 4 dwellings with adequate space for visitor parking on the driveways that service each respective garage. The remainder of the dwellings are accessed from the publicly accessible rear lane with garage doors approximately 1 metre from the laneway.

Consequently, the a total of 53 spaces in a combination or garaging, open car parking spaces, and parking on driveways, and therefore generally complies.

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 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 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 do not meet this requirement, however they conform to the Australian Standard AS2890.1 ensuring vehicles can safely and efficiently access and egress the garage in a single turning maneuver.

7.3.1.4 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.

7.3.1.5 Chapter 17 Crime Prevention through Environmental Design

The development satisfies the objectives set out in this chapter. Most notably the dwellings fronting Harbour Boulevard and Street 1 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.

7.3.1.6 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.

7.3.1.7 Storm water Management (Chapter 25)

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.

7.3.1.8 Acoustic Protection (Chapter 31)

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

7.4 Planning Agreements [s.79C(1)(a)(iia)]

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

7.5 The Regulations [s.79C(1)(a)(iv)]

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.

7.6 Coastal Zone Management Plan [s.79C(1)(a)(v)]

None relevant to the proposal or the subject site.

7.7 Environmental Impacts [s.79C(1)(b)]

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

7.7.1 Streetscape

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.

7.7.2 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 following strategies to reduce the impact during the construction phase are recommended. 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.*

7.7.3 Traffic Impacts

A Traffic Report has been prepared by Aecom which provides a traffic impact study for the Shell Cove Boat Harbour and is attached at Appendix G to the Statement of Environmental Effects.

The report outlines that the overall Boat Harbour Precinct (The Waterfront) will be able to meet the traffic needs of both new and existing Cove residents as well as staff and visitors to the growing commercial area of Shell Cove, while containing impacts on surrounding communities.

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

7.7.4 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.

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.

7.7.5 Economic Impacts

The introduction of medium density housing forms, with a high level of amenity, will have positive economic impacts as it adds to the diversity of housing offered within the region and also adds variety into the market in terms of built form outcomes, and affordability.

7.8 Site Suitability [s.79C(1)(c)]

The site suitability has been discussed throughout this report, however, the main externality arising for the proposal is the road noise generated from the Harbour Boulevard.

An Acoustic Report has been prepared by Acoustic Logic to assess the external noise impacts on Precinct B1 and C1 which was submitted at Appendix E to the Statement of Environmental Effects.

The report predicts traffic noise that will exceed the background noise at residences along Harbour Boulevard within 40m of the road.

Noise mitigation measures such as noise barriers, low noise pavements and noise treatments to facades were outlined. It concludes that the acoustic impacts will be acceptable for the future dwellings subject to the recommended noise mitigation measures.

A condition of consent is included in the Schedule of recommended conditions at Attachment 1 to 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.

7.9 Any Submissions [s.79C(1)(d)]

No submissions were received during the exhibition of the DA.

7.10 The public interest [s.79C(1)(e)]

7.10.1 Concept Approval Compliance

The Concept Approval required further environmental studies to be prepared, submitted and approved by the relevant authority with the first DA. The Approval also required further environmental assessments to be carried out and these were also submitted with DA 411/2013.

These assessment reports were considered in the assessment of the subdivision proposal of DA 411/2013 and supported.

The environmental matters considered in the DA 411/2013 have not been revisited as part of the proposed dwelling development.

As the subdivision DA was found to be consistent with the Concept Approval and the multi-dwelling development has been designed to comply with Design Guidelines formulated in accordance with the urban design criteria of the Concept Approval, the proposal is considered to be consistent with the Concept Approval No. MP 07_0027.

The subject DA is generally consistent with the approved Concept Plan by providing medium density housing in Precinct C designed in accordance with the Design Guideline Medium Density Housing (DGMDH).

7.10.1.1 Terms of Approval (Schedule 2)

The Concept Plan identified a maximum of 1238 dwellings with a total gross floor area of approximately 150,000m² comprising single dwellings, medium density and apartments. The proposal would contribute 24 dwellings of the approved total dwellings.

Table 6 –Consistency with Concept Plan Terms of Approval

Component	Approved Concept Plan	Proposed Development	Consistency
Number of Dwellings	1,238	24	✓
GFA for residential	150,000m ²	4274.1m ²	✓
Use	Medium Density Residential	Medium Density Residential	✓

Indicative dwelling numbers and types were proposed in the approved Concept Plan documentation. In total 72 medium density dwellings were identified for Precinct C. The creation of 24 medium density dwellings is considered to be consistent with the Concept Plan in terms of lot mix and yield and is therefore considered appropriate.

The key matter for consideration is the development of Design Guidelines for Medium Density Housing for the Precinct.

7.10.1.2 Further Environmental Assessment Requirements (Schedule 3)

The proposed development complies with the Further Assessment Requirements specific to the Residential Precinct, including providing the Design Guideline Medium Density Housing (DGMDH) which outline the design of the medium density developments and establish the controls, refer to Attachment 4.

7.10.1.3 Statement of Commitments (Schedule 4)

The proposal satisfies relevant Statement of Commitments made in relation to the development as part of the proposed Concept Plan. The Statement of Commitments included design requirements around the proposed buildings and built form within the precinct.

In particular, the Urban Design Commitments require a maximum building height of 4 storeys, the adoption of a contemporary coastal village materials palette and the provision of parks and boardwalks to establish public access to the harbour. An assessment of the proposal's consistency with the approved Concept Plan Statement of Commitments is located at Attachment 3.

The DA proposed dwellings with two storeys in height. The external design of the dwellings utilises contemporary coastal village materials and colours, particularly through the use of windows to reduce bulk. The proposal is considered consistent with the Concept Plan.

7.10.1.4 Design Guidelines Medium Density Housing (DGMDH)

The Concept Approval requires the preparation of detailed urban design guidelines for each stage of the development. Guidelines for the future development of the super-lots of precincts B1 and C1 were not lodged with DA 411/2015 and instead form part of the current application.

The Concept Approval requires the preparation of urban design guidelines, prepared by a suitably qualified architect or urban designer, to establish design controls to achieve the following (only those applicable to precinct B1 and C1 have been noted):

- architectural diversity within all stages which complements the site's coastal context,
- a variety of detailed designs which avoid monotones and repetition,
- demonstration of a mix of dwelling types and sizes for each residential precinct, including consideration of affordable and adaptable housing,
- building separation, setbacks, solar access, visual and acoustic privacy, view corridors and an adequate level of environmental amenity
- compliance with *Crime Prevention Through Environmental Design* (CPTED) principles,
- appropriate density, bulk, scale, textures and colours in relation to surrounding development, topography and streetscape,
- consistency with the *New South Wales Coastal Policy 1997* and *Coastal Design Guidelines New South Wales* in terms of visual impact, bulk, scale and amenity,
- buildings which address main avenues or boulevards and services by rear laneways/access ways to improve legibility and prevent gated communities.

The design guidelines have been prepared by an appropriately qualified person and are considered to have duly considered the relevant design criteria as set out in the Concept Approval. The guidelines form part of the supporting information submitted with the DA.

The dwelling development has been designed in accordance with the guidelines. The applicant has completed a compliance table to demonstrate how the proposal meets the quantitative controls of the Guideline; the compliance table forms part of the Statement of Environmental Effects submitted with the DA.

Table 7 – Summary of Consistency with the DGMDH

Medium Density Housing Controls					
	Control	Built Form	Dimension	Comments	Complies
Lot Size	Minimum lot size		120m ² (minimum dimension 4.5m)	The proposed lot sizes as part of this application area greater than the minimum requirements under the DGMDH.	✓
Building Height	Dwellings	Two storeys	7.5m (maximum wall height)	The proposed dwellings are two storeys in height with maximum wall heights less than the maximum permitted 7.5m. Garages are compliant with the maximum wall height of 3.5m, and those	✓

Medium Density Housing Controls					
				which contain studio dwellings are compliant with the maximum 7.5m wall height.	
		Three storeys	10m (maximum wall height)	Not applicable.	N/A
	Garages		3.5m (maximum wall height)	Complies. The proposed garages are less than the maximum 3.5m height.	✓
		With dwelling component above	7.5m (maximum wall height)	Complies. The proposed studio dwellings are not greater than 7.5m in height.	✓
		Maximum percentage of garages with dwelling components above in any superlot	20%	13% of the garages have dwelling components.	✓
Setbacks	Primary Street	Building frontage	3m (minimum)	Stage 91 and 92 has its primary street frontage to Street 1, and Stage 89 and 90 has its primary frontage to Harbour Boulevard. All dwellings are provided with a minimum 3m setback to these streets.	✓
		Articulation zone	2m (maximum)	The articulation zone provided for each dwelling is equal to or less than the 2m maximum permissible.	✓
		Garage frontage	5.5m (minimum, to door)	Not applicable – no garages front the primary street frontage of the proposed dwellings.	N/A
	Secondary Street (for corner lots)	Building frontage	2m (minimum)	Lots 9101, 9102, 9210 and 9209 both have secondary frontages to parts of the access to Street 1, Lane4 and Land 3, and are provided with 2m setbacks from those frontages.	✓
		Articulation zone	1m (maximum)	Lots 9101, 9102, 9210 and 9209 provide minimal articulation along the secondary frontage.	✓
		Garage frontage	0.5m (minimum)	Not applicable. No garages front the secondary street.	N/A
	Side	Duplexes, Townhouses and Garden Studios (corner lots)	0m (where one side of the building is not attached, the minimum setback is 0.9m)	The town houses and studios are provided with setbacks (where applicable) of greater than 0.9m, due to these dwellings being attached.	✓
		Small lot housing	0.9m (minimum)	Not applicable.	N/A
	Laneway	Building frontage	3m (minimum)	Not applicable. No lots have their frontage to Lane 3 and 4.	N/A
		Articulation zone	2m (maximum)	Not applicable. Only garages front to Lane 3 and 4.	N/A
		Garage frontage (at end of superlot)	0.5m (minimum)	The proposed garages which front Lane 3 and 4 all have a setback greater than 0.5m.	✓

Medium Density Housing Controls					
	Rear	Rear of main dwelling	8m (minimum)	Not applicable. All lots have frontage to a primary street and a rear lane.	N/A
		Articulation zone	4.5m (maximum)	Not applicable. All lots have frontage to a primary street and a rear lane.	N/A
		Garden Studios/Corner buildings	1.4m (minimum)	Not applicable. All lots have frontage to a primary street and a rear lane.	N/A
		Articulation zone	0m (maximum)	Not applicable. All lots have frontage to a primary street and a rear lane.	N/A
	Alfresco	Setback of roofs associated with alfresco areas from any boundary	0.9m (minimum)	All alfrescos are setback greater than 0.9m.	N/A
Private Open Space	Provision	Per dwelling	16m ² (minimum dimension of 3m)	Complies. All dwellings are provided with more than 16m ² of private open space excluding the fonzie flats, which under section 3.5 of the DGMDH require private open space on a merit basis, and may include Juliet balconies. As there is to be open space and parkland provided near to the site, it is considered suitable that the fonzie flat residents utilise those spaces for open space and recreational purposes.	✓
		Solar access requirement	2 hours for 50% of private open space area during mid-winter minimum 50% of the superlot	Complies. For lots 90 & 92, 90% of the proposed dwellings received 2 hours or more of sunlight during mid-winter. For lots 89 & 91, 55.5% of the proposed dwellings received 2 hours or more of sunlight during mid-winter	✓
Parking	Provision	One to two bedroom dwelling	1 car space	Complies. The one bedroom studio dwellings are provided with one car space.	✓
		Three bedroom + dwelling	2 car spaces (minimum 1 space covered)	Complies. The three bedroom dwellings are provided with two car spaces located within undercover garages.	✓

7.10.2 Section 94 Contributions Plan 2013 (7th Review)

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 as follows:

Section 94 Contribution payable: \$238,016.22

The following condition is included in the recommendation:

A contribution must be paid to Council towards the provision of community infrastructure and services prior to the issue of the Construction Certificate for each stage. This amount has been calculated in accordance with Shellharbour City Council's *Section 94 Contributions Plan 2013* dated 18 December 2013. The contribution amount for each stage is:

- Stage 1 - 129,827.03
- Stage 2 - \$108,189.19

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

Subject to compliance with the conditions listed below, it is expected that the proposed development will not create any significant or negative impacts on the surrounding area or public interest.

The development positively contributes to the public interest the following reasons:

- a. The development provides a housing need and type for the population within the Shellharbour community.
- b. The development will result in the levying of developer contributions towards community facilities and open space.

8 CONCLUSION

The application to construct of 24 townhouses with garages and associated landscape works and subdivide into 24 lots the unregistered super-lots known as Lots 2236 and 2237 in provisional DP1203745 on the land described Lot 1279 DP1175512 has been assessed in accordance with the provisions of the Environmental Planning and Assessment Act, 1979 as amended with all matters specified under Section 79C (1) Clauses (a) to (e) having been taken into consideration.

The proposal is generally consistent with Part 3A Concept Approval for the Boat Harbour Precinct, as envisaged in NSW State Government's and Council's strategic and statutory planning documents. The provision of a mix of multi-dwelling housing units will contribute to the growth of and the realisation of Council's strategic vision for the City Centre, which is for a *"liveable city that is connected through places and spaces"*.

Furthermore, the proposal provides a responsive design in terms of its relationship with adjoining future development and establishes an appropriate human scale through the implementation of sound urban design principles, whilst ensuring that environmentally sustainable principles are incorporated.

As such, the proposed development is considered to be both reasonable and appropriate in the context of the site. The development will have positive social and economic benefits in terms of the employment and housing product diversity and will support local businesses and services.

Having regard to the merits of the proposal, it is considered that the development represents a well-conceived response to all the relevant planning controls and the constraints and opportunities presented by the site and is worthy of approval, subject to conditions.

It is recommended that the Panel approve the DA No. 100/2016 for multi-dwelling housing and subdivision at Lot 1279 DP 1175512 The Farm Way, Shell Cove, subject to the recommended development consent conditions at Attachment 1.

9 RECOMMENDATION

Pursuant to Section 80 of the Environmental Planning and Assessment Act, 1979 the following is recommended:

- a. That the Southern Region Joint Regional Planning Panel grant deferred commencement consent to Development Application No.100/2016 for construction of 24 Lot Torrens Subdivision and Construction of 24 Townhouses with Garages and Landscape Works at

Lot 1279 DP 1175512 The Farm Way, Shell Cove subject to the conditions of consent in **Attachment 1** of this report.

ATTACHMENT 1 - Schedule of Conditions

DEFERRED COMMENCEMENT

Under section 80(3) of the Act, this development application has been determined by granting of Deferred Commencement. This Consent does not operate until the applicant/proponent has, to the satisfaction of the Council of the City of Shellharbour, resolved the following matter(s):

DC1. Registration of Subdivision.

Evidence of the registration of the subdivision approved under Development Consent No. 411/2013 with the NSW Land and Property Information must be submitted to Shellharbour City Council.

The report/evidence must be submitted by 10 October 2017, otherwise the consent will lapse on that date, unless varied by formal application under section 96 of the *Environmental Planning & Assessment Act 1979*.

Any changes to the approved documentation and/or consent conditions as a result of the registration of the subdivision will require an application to modify the development consent under section 96 of the *Environmental Planning & Assessment Act 1979* and subsequent approval.

PART A – ADMINISTRATIVE CONDITIONS

1. 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.

2. Prescribed Conditions

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

3. Development in Accordance with Plans and Documents

The development must be in accordance with the approved Development Application plans as endorsed by Council's stamp except as modified by conditions of this consent.

Name of Plan/Document	Prepared By	Drawing/Document No./Revision	Date
Indicative Staging Plan	Frasers Property	-	11.12.2015

Waste Management Plan – Construction Phase	-	-	As lodged with DA
Statement of Environmental Effects	JBA Urban Planning Consultants	Stages 99-100 Precinct C1	December 2015
Appendix A – Traffic	LFA (Pacific) Pty Ltd	-	February 2010
Appendix C – Contamination	LFA (Pacific) Pty Ltd	-	February 2010
Appendix D – Geotechnical	LFA (Pacific) Pty Ltd	-	February 2010
Appendix J – Air Quality And Noise	LFA (Pacific) Pty Ltd	-	February 2010
BASIX Certificate	Victor Lin & Associates Pty Ltd	Stage 99,100 _ Certificate No. 671033M_03	07.12.2015
Site Plan – Ground Floor Plan	Frasers Property	Dwg No.2.1 Version D	08.07.2016
First Floor Plan	Frasers Property	Dwg No.2.2 Version D	08.07.2016
-Streetscapes	Frasers Property	Dwg No.3.1 Version D	08.07.2016
CN9901-9903 Architectural Plans	Frasers Property	Dwg No.5.1 – 5.3 Version C	08.07.2016
CN9904-9906 Plans & Elevations	Frasers Property	Dwg No.5.4 Version C	08.07.2016
CN9904 Garage Plans, Elevations & Sections	Frasers Property	Dwg No.5.6 Version C	08.07.2016
CN9905 – CN9906 Garage Plans, Elevation & Sections	Frasers Property	Dwg No.5.7 Version C	08.07.2016
CN9907-9908 Architectural Plans	Frasers Property	Dwg No.5.08 – 5.10 Version C	08.07.2016
CN9909-9910 Architectural Plans	Frasers Property	Dwg No.5.11 – 5.13 Version C	08.07.2016
CN9101-9102 Plans, Elevations & Sections	Frasers Property	Dwg No.5.14 Version C	08.07.2016
CN9103-9105 Architectural Plans	Frasers Property	Dwg No.5.15-5.17 Version C	08.07.2016
CN9106-9108 Architectural Plans	Frasers Property	Dwg No.5.18-5.19 Version C	08.07.2016
CN9106 – CN9107 Garage Plans, Elevations & Sections	Frasers Property	Dwg No.5.20 Version C	08.07.2016
CN9108 Garage Plans, Elevations & Sections	Frasers Property	Dwg No. 5.21 -5.31 Version C	08.07.2016
Finishes Palette (Colour Scheme)	Arkee Creative		As lodged with DA

Landscape Plans	Ecodesign	L-01 – L-05 Rev. C	
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- * 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.

4. Compliance with Notations on Drawings

Works must comply with any notations highlighted on the approved plans and specifications.

PART B - PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

5. Amendments to Approved Plans

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

- the kitchen window of the studio dwellings is to have a sill height of at least 1500mm above floor level or have obscure glazing up to 1500mm above floor level. The intent of this is to minimise overlooking into the rear open space of the dwelling on the same allotment, noting that the studio dwelling may have separate occupancy,
- the large window of the kitchen-living/dining area of the studio dwellings is to be redesigned to minimise overlooking into the neighbouring open space area, or its location on this elevation be switched with the smaller window on the same elevation.
- where an upper level window on the side elevations of a dwelling will directly face a window of an adjoining dwelling, the window must be offset by at least 0.5m, or must have a sill height of at least 1500mm above floor level or must have obscure glazing 1.5m above floor level,
- the window changes on the marked up plans referred to in condition A3, and
- the acoustic attenuation measures for dwellings, excluding the use of an acoustic boundary fence, located within 40m of the Harbour Boulevard must be in accordance with 'The Assessment of Air Quality and Noise' prepared by Wilkinson Murray Pty Limited Report no. 05135-CP Version E dated January 2010.

6. Section 94 Contributions

A contribution must be paid to Council towards the provision of community infrastructure and services prior to the issue of the Construction Certificate for each stage. This amount has been calculated in accordance with Shellharbour City Council's *Section 94 Contributions Plan 2013* dated 18 December 2013. The contribution amount for each stage is:

- Stage 1 - 129,827.03
- Stage 2 - \$108,189.19

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>>

7. Street Tree Inspection Fee

The developer must lodge with Council an inspection fee of \$89 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.

8. Utilities - Sydney Water

The approved plans must be submitted to a Sydney Water Tap in™ to determine whether the development will affect Sydney Water wastewater and water mains, stormwater drains and/or easements, and if any requirements need to be met. The new Tap in™ online self-service replaces QuickCheck agents as of 30 November 2015.

Please refer to the web site www.sydneywater.com.au for:

- Sydney Water Tap in™ www.sydneywater.com.au/SA/plumbing-building-developing/building/sydney-water-tap-in/index.htm and
- Guidelines for Building Over/Adjacent to Sydney Water assets - see Building & Developing then Building & Renovating

or telephone 13 20 92.

The Certifier must ensure that Sydney Water Tap in™ has issued appropriate electronic approval.

9. 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.
- J. including measures to prevent the tracking of sediment off the site.

10. 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. drain to the street,
- 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 to the satisfaction of the Certifying Authority,
- d. be designed to cater for a 1 in 20 year Average Recurrence Interval storm event,
- e. overflow drainage paths are to be provided and be designed to cater for 1 in 100 year Average Recurrence Interval storm event,
- f. comply with Council's *Shellharbour Development Control Plan (Chapter 25 & Appendix 12)* unless variation is specifically noted and approved on DA concept drainage plan,

- g. include 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.

11. 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.

12. Driveway Finishes

The surface finish of the driveway 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.

13. 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.

PART C - PRIOR TO COMMENCEMENT OF WORKS

14. 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.

15. 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.

16. 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.

17. Protection Fencing

The vegetation/street tree protection fencing must be installed prior to works commencing.

18. Site Management Plan

Prior to the commencement of works, the applicant must submit to and obtain approval for a construction and site management plan from the Certifying Authority that clearly sets out the following:

- a. what actions are proposed to ensure safe access to and from the site and what protection will be provided to the road and footpath area from building activities, crossings by heavy equipment, plant and materials delivery and static load from cranes, concrete pumps and the like
- b. the proposed method of loading and unloading excavation machines, building materials and formwork within the site
- c. the proposed areas within the site to be used for the storage of excavated material, construction materials and waste containers during the construction period
- d. sediment and erosion control measures as per Landcom's publication 'Managing Urban Stormwater - Soils and Construction (2004)' also known as the 'Blue Book' or subsequent revisions
- e. how it is proposed to ensure that soil/excavated materials are not transported on wheels or tracks of vehicles or plant and deposited on the roadway
- f. the proposed method of support to any excavation adjacent to adjoining buildings or the road reserve. The proposed method of support is to be certified by an appropriately qualified and experienced engineer

19. Section 138 Roads Act 1993

For works within the road reserve, the requirements of the Section 138 of the *Roads Act 1993* apply. In this regard:

- If a driveway is proposed, a Driveway Application must be made, or
- If any other works are proposed and/or occupation of the road reserve proposed, a Road Opening Application must be made.

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

20. 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.

PART D - DURING CONSTRUCTION WORKS

21. Storage of Materials

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

22. Hours of Work During Building Work

Noise generating activities, including demolition, 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

23. 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.

24. Waste Management

The management of waste must comply with the approved Waste Management Plan. Any variations to the Waste Management Plan must have prior written approval of Council.

25. Retaining Walls

Any retaining walls must be located wholly within the property, including footings and agricultural drainage lines. This may require the retaining wall to have a minimum boundary setback of 200mm.

Construction of retaining walls or associated drainage work along common boundaries must not compromise the structural integrity of any existing structures.

26. 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.

27. Protection Fencing

The vegetation/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.

28. Approved External Materials & Colours

The external treatment/appearance of the development must be in accordance with the approved Finishes Palette Shell Cove - The Waterfront prepared by Arkee Creative Drawing No. CN9201-9210 and CN9001-9012 .

PART E - PRIOR TO OCCUPATION

29. BASIX

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

30. 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.

31. 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.

32. 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.

33. 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.

34. 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.

35. 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 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.

36. Fence Installation

A 1.8m high fence enclosing the open space area of dwelling [insert dwelling no.] and located in accordance with the approved landscape plan must be installed prior to the issue of an Occupation Certificate.

37. 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.

PART F - PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

TORRENS TITLE SUBDIVISION

38. Final Plan of Subdivision

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

- a. an application for a Subdivision Certificate,
- b. five paper prints of the final plan of subdivision,
- c. the original and two paper copies of the 88B Instrument and Administration Sheet,
- d. fees appropriate at the time of submission of the application, and
- e. an electronic copy of the subdivision linework. The electronic copy should be in Map Grid of Australia 1994 Zone 56 (GDA94) coordinates and must contain closed linework of boundaries and easements. It must be submitted in DWG or DXF format on cd-rom or by email to traffic&subdivision@shellharbour.nsw.gov.au The email and the electronic copy should be named "Subdivision Title & Stage - DA No/Year Street Address Final Plan".

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

39. 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.

40. 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, and
- d. drainage structures.
- e. kerbside collection of waste is not permitted from Harbour Boulevard,
- f. vehicular access for those lots having frontage to Harbour Boulevard is not permitted from Harbour Boulevard,
- g. acoustic attenuation, for lots within 40m of Harbour Boulevard in accordance with 'The Assessment of Air Quality and Noise' prepared by Wilkinson Murray Pty Limited Report no. 05135-CP Version E dated January 2010, excluding acoustic boundary fencing, and
- h. general fill.

41. Release of Certificate

The Subdivision Certificate must not be released until the Final Occupation Certificate for the development has been issued by the Principal Certifying Authority.

PART G - AFTER ISSUE OF OCCUPATION CERTIFICATE/DURING OCCUPATION

42. BASIX Commitments

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

PART H – OTHER APPROVALS

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.

END OF RECOMMENDED CONDITIONS

ATTACHMENT 2 – Concept Approval Compliance Table

REQUIREMENT	COMPLIANCE STATUS	COMMENT
PART A – Terms of Approval		
<p>1. Approval for the Boat Harbour Precinct</p> <p>Except as modified by this approval, Concept Plan approval is granted only to the carrying out of development within the Concept Plan area as listed below and in more detail in Shell Cove Boat Harbour Precinct Concept Plan Application and Environmental Assessment, 26 February 2010, as amended by the Preferred Project Report:</p> <ul style="list-style-type: none"> (a) Up to 1,238 dwellings with a total gross floor area of approximately 150,000m² comprising single dwellings, medium density and apartments; (b) a business park with a maximum gross floor area of 30,000m²; (c) retail/commercial/hotel/community development with a maximum gross floor area of 22,000m²; (d) public open space and wetlands; and (e) associated drainage, stormwater infrastructure and roads. 	YES	Nil
<p>2. Approved Plans and Documentation</p> <p>The project shall be generally in accordance with the following plans and documentation:</p> <ul style="list-style-type: none"> (a) Shell Cove Boat Harbour Precinct Concept Plan Application and Environmental Assessment, dated 26 February 2010, prepared by LFA (Pacific) Pty Ltd, including Volumes 1 and 2 and Appendices A to P; (b) Shell Cove Boat Harbour Precinct Preferred Project Report, dated November 2010 prepared by LFA (Pacific) Pty Ltd, including Appendices 1 and 2; and (c) Statement of Commitments (Schedule 4). <p>except as otherwise provided by the terms of this approval.</p>	YES	Nil
<p>3. Limits on Approval</p> <p>This approval does not allow any components of the Concept Plan to be carried out without further approvals or consents being obtained.</p>	YES	Nil
<p>4. Lapsing of Approval</p> <p>Approval of Major Project No. 07_0027 shall lapse 5 years after the date of determination unless works the subject of any related application have been physically commenced, on or before that lapse date. The Director-General may extend this lapse date if the proponent demonstrates to the satisfaction of the Director-General that the project remains current, appropriate and reflective of the best use of the site at the date the approval would otherwise lapse.</p>	N/A	Nil
<p>5. Inconsistencies</p> <p>(1) In the event of any inconsistency between:</p> <ul style="list-style-type: none"> a) the terms of this approval and the Statement of Commitments, the conditions of this approval prevail; and b) the terms of this approval and the documents referred to in Part A - condition 2, the conditions of this approval prevail. <p>(2) If there is any inconsistency between the terms of the approval of the concept plan and any project approval or development consent, this concept approval shall prevail to the extent of the inconsistency.</p>	N/A	Nil
PART B - Modifications		
<p>Part B – Modifications to the Concept Plan</p> <p>There are no modifications required to the Concept Plan outlined in the Shell Cove Boat Harbour Precinct Preferred Project Report.</p>	N/A	Nil
PART C – Further Environmental Assessment Requirements		
<p>Part C – Further Environmental Assessment Requirements</p> <p>The following environmental assessment requirements apply to the entire project and the requirements specified below must be submitted and approved by the relevant approval authority with the first application made under Part 3A or Part 4 of the EP&A Act.</p>		

<p>1. Coastal Hazards Study</p> <p>A detailed Coastal Hazards Study, prepared by a suitably qualified person comprising a coastal hazard risk assessment for the project taking into consideration the requirements of the <i>Shellharbour Coastal Hazard Study</i> (April 2010), and complying with the NSW Government's coastal risk planning benchmarks. The study must include an assessment of adequacy of height of sea wall against the predicted impacts of sea level rise, inundation and more frequent and intense storms to the year 2100; and details of dunal stabilisation works to 4.5m AHD. It must also provide details of responsibility for implementation and funding of the operational phase of the Beach Nourishment/Rehabilitation Management Plan.</p>	Completed.	DA411/2013 Subdivision of Stage B1 and C1
<p>2. Fauna Assessment</p> <p>A contemporary fauna assessment and survey for the Green and Golden Bell Frog undertaken in accordance with <i>Threatened Species Survey and Assessment Guidelines: Field Survey Methods for Fauna – Amphibians</i>, Department of Environment and Climate Change (April 2009). If the assessment concludes that there will be an impact on the Green and Golden Bell Frog, appropriate mitigation measures and/or changes must be incorporated into the project as recommended by the assessment.</p>	Completed.	DA411/2013 Subdivision of Stage B1 and C1
PART D – Further Environmental Assessment Requirements		
The following environmental assessment requirements apply, where relevant, to development of each stage/precinct of the project and must be submitted with any subsequent applications to the relevant approval authority made under Part 3A or Part 4 of the EP&A Act.		
<p>1. Urban Design</p> <p>The proponent must submit detailed urban design guidelines for the project prepared by a suitably qualified architect or urban designer, for each stage. The guidelines must establish design controls which achieve the following where relevant to the particular stage:</p> <ul style="list-style-type: none"> architectural diversity within all stages which complements the site's coastal context; and a variety of detailed designs which avoid monotones and repetition; design of the hotel building and public square in the commercial precinct which define street and water edges, and create visual interest; a hotel building with tower angled to the east to maximise views to the coast to the north and south and reduce impacts on the boat harbour and which may comprise a 3-4 storey high podium; demonstration of a mix of dwelling types and sizes for each residential precinct, including consideration of affordable and adaptable housing; building separation, setbacks, solar access, visual and acoustic privacy, view corridors and an adequate level of environmental amenity; compliance with <i>Crime Prevention Through Environmental Design</i> (CPTED) principles; the location and distribution of public car parks; where applicable, that <i>State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development</i> principles and the <i>Residential Flat Design Code Guidelines</i> can be achieved; appropriate density, bulk, scale, textures and colours in relation to surrounding development, topography and streetscape; consistency with the <i>New South Wales Coastal Policy 1997</i> and <i>Coastal Design Guidelines New South Wales</i> in terms of visual impact, bulk, scale and amenity; layout and design which satisfies the design considerations in <i>Healthy by Design: A Planners Guide to Environment's for Active Living</i>, National Heart Foundation of Australia; clear addresses for buildings fronting public walkways along the harbour and direct access from walkways where possible; an indicative staging plan identifying the likely timing and sequence for each stage; buildings which address main avenues or boulevards and serviced by rear laneways/access ways to improve legibility and prevent gated communities; and design and layout to minimise noise impacts to sensitive residential areas near the quarry boundary. 	Completed.	Submitted Refer to Attachment 5
<p>2. Landscaping</p> <p>A landscape plan prepared by a suitably qualified landscape architect detailing the locations, types and treatments for landscaping and public domain elements with consideration of Council's requirements.</p>	YES	Nil
<p>3. Noise Management Assessment</p> <p>A detailed Noise Management Assessment identifying:</p> <ul style="list-style-type: none"> traffic noise mitigation measures for the road design; areas which require acoustic treatments to dwelling facades to provide satisfactory indoor noise levels; and appropriate mitigation measures (the use of mounds and landscape buffers, not acoustic walls) for the design and layout of stages affected by truck noise from the Quarry Haul Road, dry boat storage and marina activities. 	Completed.	DA411/2013 Subdivision of Stage B1 and C1

<p>4. Utilities</p> <p>Address and document the existing capacity and requirements of the project for utilities, including any necessary augmentation and staging of any infrastructure works, in consultation with relevant agencies.</p>	Completed.	DA411/2013 Subdivision of Stage B1 and C1
<p>5. Earthworks Strategy</p> <p>Provide a detailed Earthworks Strategy, prepared by a suitably qualified person which addresses erosion and sedimentation controls and includes measures to manage acid sulfate soils and stockpiling.</p>	Completed.	DA411/2013 Subdivision of Stage B1 and C1
<p>6. Remedial Action Plan</p> <p>A Remedial Action Plan is to be prepared for the former golf course area and the south-eastern area of the site at the location of the former farm structure by a suitably qualified person in accordance with <i>Managing Land Contamination: Planning Guidelines SEPP 55 – Remediation of Land</i> (DUAP/EPA, 1998), based on the recommendations and conclusions of the Phase 2 Contamination Assessment prepared by Douglas Partners dated October 2010 (Appendix 2D of the Preferred Project Report).</p>	Completed.	DA411/2013 Subdivision of Stage B1 and C1
<p>7. Flood Assessment</p> <p>A detailed Flood Assessment, prepared by a suitably qualified person identifying flood affected parts of the land and showing how the proposed project at each stage will comply with Shellharbour City Council <i>Floodplain Risk Management Development Control Plan (April 2006)</i>, (except where it is inconsistent with NSW State Government policy and guidelines), and comply with the government's sea level rise and climate change benchmarks, current at the time of preparation of the Flood Assessment. The findings of the Flood Assessment must inform the ultimate layout and design of each stage of the project.</p> <p>The assessment must include a flood planning levels map, details of flood planning levels adjacent to the boat harbour and for the major overland flow paths; and mitigation measures to reduce impacts on flood levels in vicinity of Ron Costello oval.</p>	Completed.	DA411/2013 Subdivision of Stage B1 and C1
<p>8. Stormwater and Water Cycle Management Plan</p> <p>Identify drainage, stormwater and groundwater management issues, on-site stormwater detention (if required), and drainage infrastructure to ensure achievement of the water quality targets identified in the Boat Harbour Development Consent 95/133 for each stage of the project consistent with Council's requirements.</p>	Completed.	DA411/2013 Subdivision of Stage B1 and C1
<p>9. Environmental Management Plan</p> <p>An Environmental Management Plan (EMP), prepared by a suitably qualified person demonstrating measures to mitigate potential impacts on aquatic habitats and aquatic species during the construction and operation periods. The EMP must be prepared in consultation with the Department of Environment, Climate Change and Water.</p>	Completed.	DA411/2013 Subdivision of Stage B1 and C1
<p>10. Construction Management Plan</p> <p>A comprehensive Construction Management Plan, including a traffic management plan identifying truck routes, vehicular frequency, hours of operation, use of equipment, and measures to minimise dust, noise and vibration impacts on surrounding areas, and ensure vehicular and pedestrian safety.</p>	Completed.	DA411/2013 Subdivision of Stage B1 and C1
<p>11. Ecologically Sustainable Development</p> <p>Demonstrate that any future development will incorporate ESD principles in its design, construction and ongoing operation phases, including water sensitive urban design measures, water re-use/recycling, energy efficiency, recycling and waste disposal.</p>	Completed.	DA411/2013 Subdivision of Stage B1 and C1
<p>12. Acid Sulfate Soils</p> <p>An Acid Sulfate Soil Management Plan (ASSMP) for each stage of the project for actual and potential acid sulphate soils prepared by a suitably qualified person in accordance with the <i>NSW Acid Sulfate Soil Manual</i> (NSW Acid Sulfate Soil Management Advisory Committee, August 1998). The ASSMP must examine how the pre-loading process and treatment of ASS will be staged and managed throughout the life of each stage especially regarding the impacts of trenches (for service and drainage) on groundwater and acid leachate.</p>	Completed.	DA411/2013 Subdivision of Stage B1 and C1
<p>13. Social Infrastructure</p> <p>Social infrastructure shall be provided in accordance with Council's Section 94 Contributions Plan. The details of any playground, local library and multi-purpose community centre shall be provided with each stage of the project.</p>	Completed.	DA411/2013 Subdivision of Stage B1 and C1
<p>14. Local Infrastructure Contributions</p> <p>Contributions towards local infrastructure in accordance with the <i>EP&A Act 1979</i> must be provided.</p>	Completed.	DA411/2013 Subdivision of Stage B1 and C1

<p>15. Erosion and Sedimentation Control</p> <p>A detailed Erosion and Sedimentation Control Plan prepared in accordance with <i>Managing Urban Stormwater: Soils and Construction</i>, Landcom (March 2004) ('the Blue Book') detailing the design, construction and implementation of measures to manage stormwater, and erosion and sediment control during the construction phases of each stage of the project.</p>	Completed.	DA411/2013 Subdivision of Stage B1 and C1
<p>16. Traffic Assessment</p> <p>An updated traffic impact assessment prepared by a suitably qualified person for each stage/precinct of the project which includes a cumulative impact assessment having regard to the status of the future construction of the intersection of Harbour Boulevard and Shellharbour Road.</p>	Completed.	DA411/2013 Subdivision of Stage B1 and C1
<p>17. Public Access</p> <p>The detailed design and layout of the project must adopt the following principles:</p> <ul style="list-style-type: none"> (a) direct, legible and inviting public pedestrian access from adjoining residential development and pedestrian connections which follow existing and proposed well-connected streets; (b) clear and direct access from the public walkway around the harbour to streets that meet the harbour edge to ensure public access is well defined and integrated; and (c) clear, through-site pedestrian links with active street frontages, direct and legible access to key points of interest, including Shellharbour village, which are publicly accessible at all times. (d) consistency with the Shellharbour Shared Use Path Strategy (Shellharbour City Council, 10 August 2010) unless otherwise justified. 	Completed.	DA411/2013 Subdivision of Stage B1 and C1
SCHEDULE 4 – Statement of Commitments		
<p>4.1 GENERAL COMMITMENTS</p> <ul style="list-style-type: none"> ▪ The Proponent undertakes to pursue the development in accordance with the Concept Plan and Preferred Project Report, which reflects the Shell Cove Masterplan, the Illawarra Regional Strategy, the Illawarra Regional Environmental Plan, the Shellharbour Local Environmental Plan, the Environment Protection and Biodiversity Conservation Act and the appropriate State Environmental Planning Policies. ▪ The Proponent undertakes to obtain all necessary approvals required by State and Commonwealth legislation prior to undertaking subsequent stages of the development. 	YES	Nil
<p>4.2 STRATEGIC PLANNING</p> <ul style="list-style-type: none"> ▪ The Proponent undertakes to respond to relevant local, regional and State planning strategies. ▪ The Proponent undertakes to consider the recommendations of the <i>Shellharbour Local Government Area Retail/Commercial Study and Employment Study</i>, which includes: <ul style="list-style-type: none"> – Enhancing public domains in support of Shell Cove as a creative and cultural hub. – Establishing a retail centre and operating a supermarket. – Establishing a Business Park. ▪ The Proponent undertakes to demonstrate consistency with the Sustainability Criteria set out in Appendix 1 of the Illawarra Regional Strategy, which includes: <ul style="list-style-type: none"> – Providing infrastructure. – Enhancing access to and within the Boat Harbour Precinct. – Providing employment opportunities. – Encouraging both conservation and enjoyment of the natural resources and coastal environment of Shell Cove. 	YES	Nil
<p>4.3 URBAN DESIGN, VISUAL IMPACT AND SUSTAINABILITY</p> <ul style="list-style-type: none"> ▪ The Proponent undertakes to respond to the surrounding area by addressing bulk, scale, amenity (including noise) and visual amenity, with regards to the NSW Coastal Policy (1997), which includes: ▪ Implementing maximum building heights of 4 storeys (excluding the landmark hotel which is proposed to have a maximum height of 8 to 9 storeys). ▪ Adopting a contemporary coastal village materials palette. ▪ Providing parks and boardwalks which establish public access to the harbour perimeter. 	YES	Nil

<ul style="list-style-type: none"> ▪ Establishing visual connections between streets and open spaces and the harbour. ▪ The Proponent undertakes to respond to the surrounding area by addressing bulk, scale, amenity (including noise) and visual amenity, with regards to the Coastal Design Guidelines of NSW (2003), which includes: <ul style="list-style-type: none"> – Incorporating visual and physical links to the natural environment, such as integrating wetlands. – Providing an open space network. – Maintaining the Shell Cove Town Centre as a visual landmark. – Managing increased local population and visitor access to the foreshore. ▪ The Proponent undertakes to ensure that the relevant residential components of the development demonstrate compliance with SEPP 65 - Design Quality of Residential Flat Development, which includes providing: <ul style="list-style-type: none"> – Private open spaces. – Courtyards. – Useable balconies. – Decks. 		
<p>4.4 LANDSCAPE</p> <ul style="list-style-type: none"> ▪ The Proponent undertakes to implement street tree planting in accordance with a landscape plan to be submitted as part of each Project Application. ▪ The Proponent undertakes to implement planting and other works in areas of public open space as designated in the landscape plan to be submitted as part of each Project Application. 	YES	Nil
<p>4.5 INFRASTRUCTURE PROVISION</p> <ul style="list-style-type: none"> ▪ The Proponent undertakes to assess existing capacity and provide infrastructure requirements for sewerage, water, electricity, telecommunications and gas. ▪ The Proponent undertakes to adopt Water Sensitive Urban Design principles in the provision of infrastructure requirements. ▪ The Proponent undertakes to obtain and maintain all necessary licences, permits and approvals for the development prior to and during construction. 	YES	Nil
<p>4.6 TRAFFIC AND ACCESS</p> <ul style="list-style-type: none"> ▪ The Proponent undertakes to implement a traffic management strategy - in relation to the capacity of the road network to cater for additional traffic generation including service vehicles, access to and within the site, and connectivity to existing developments - with particular emphasis on the following key intersections: <ul style="list-style-type: none"> – Shellharbour Road/Harbour Boulevard/Wattle Road - revised layout. – Addison Street/Harbour Boulevard - new traffic signals. – Brigantine Drive/Harbour Boulevard - single lane roundabout. – Cove Boulevard/Harbour Boulevard - single lane roundabout. – Road A/Harbour Boulevard - single lane roundabout. ▪ The Proponent undertakes to consider the impact of the development on existing public transport provision, identify pedestrian movements and implement appropriate provisions for shared path/cycleway/public transport routes to the existing and proposed road network, including a Pedestrian Shared Zone in the Town Centre. ▪ The Proponent undertakes to incorporate parking in accordance with the requirements as part of subsequent Project Applications. ▪ The Proponent undertakes to protect existing public access to and along the beach and coastal foreshore and provide new opportunities for controlled public access including providing continuous public access to the perimeter of the harbour. ▪ The Proponent undertakes to maintain good access to the Bass Point Reserve. 	YES	Nil
HAZARD MANAGEMENT AND MITIGATION		
<p>4.7.1 Coastal Processes</p> <ul style="list-style-type: none"> ▪ Under the separate Boat Harbour approval the Proponent undertook to implement a Beach Nourishment/Rehabilitation Management Plan which identifies measures to protect and rehabilitate the Shellharbour South Beach dunal system. ▪ The Proponent undertakes to ensure that beach behaviour is monitored to provide information which will facilitate effective management of natural coastal processes. ▪ The Proponent undertakes to respond to potential sea level rise as a result of climate change by ensuring that all habitable buildings within the Boat Harbour Precinct adopt a freeboard of 0.5m and providing a sea wall with a height of 2.00m AHD. 	Completed.	DA411/2013 Subdivision of Stage B1 and C1

<p>4.7.2 Contamination</p> <ul style="list-style-type: none"> The Proponent undertakes to identify any contamination on site and apply appropriate mitigation measures in accordance with the provisions of SEPP 55 - Remediation of Land. The Proponent undertakes to remove any residual landfill within the site associated with the Shellharbour Swamp. The Proponent undertakes to ensure that the development does not result in any significant increase in flood levels on adjacent properties. Flood impacts will not exceed those identified in Appendix F of the EA. The Proponent undertakes to ensure that flood risk will be assessed in each Project Application for consistency and compliance with the Concept Plan and compliance with the NSW Flood Plain Development Manual 2005 and Council's Flood Plain Risk Management DCP (except where inconsistent with NSW State Government Policies and Guidelines). 	Completed.	DA411/2013 Subdivision of Stage B1 and C1
<p>4.7.3 Acid Sulfate Soils</p> <ul style="list-style-type: none"> The Proponent undertakes to treat any disturbed ASS material in accordance with the ASS Management Advisory Committee Guidelines. 	Completed.	DA411/2013 Subdivision of Stage B1 and C1
<p>4.7.4 Bushfire</p> <ul style="list-style-type: none"> The Proponent undertakes to implement an Asset Protection Zone from the revegetated dunal zone located to the east of the study area to any residential, commercial or retail buildings within the Boat Harbour Precinct in accordance with the Planning for Bushfire Prevention guidelines. 	Completed.	DA411/2013 Subdivision of Stage B1 and C1
<p>4.7.5 Geotechnical</p> <ul style="list-style-type: none"> The Proponent undertakes to preload areas of soft soil prior to construction in accordance with the separate Boat Harbour approval. The Proponent undertakes to ensure that following satisfactory preloading, the compacted preload is removed and extra compacted fill is placed, as required, to match the final design level. 	Completed.	DA411/2013 Subdivision of Stage B1 and C1
<p>4.7.6 Flooding</p> <ul style="list-style-type: none"> The Proponent undertakes to provide waterway corridors to be used as floodways - using Water Sensitive Urban Design principles and incorporating wetlands, natural creeklines and open space areas - to manage and contain flood hazards. The Proponent undertakes to implement a Flood Emergency Response which includes remaining on site during PMF events and maintaining safe pedestrian and vehicular access routes out of the Boat Harbour Precinct for events up to the 100yr ARI flood. The Proponent undertakes to respond to sea level rise by adopting Flood Planning Levels based upon the 100 year ARI flood level plus 0.90 m sea level rise (for the year 2100) plus 0.50 m (to comply with Council's freeboard requirement). The Proponent undertakes to prepare a FPL map in accordance with Figure 5 of the NSW Coastal Planning Guideline Adapting to Sea Level Rise for each Project Application when more detailed definition of final design levels is available. This will include localised flood modelling for each stage of the Boat Harbour Precinct to demonstrate compliance with the NSW Coastal Planning Guideline Adapting to Sea Level Rise. The Proponent undertakes to prepare an assessment of the impact of 0.9m sea level rise on the 5 year and 100 year ARI and PMF storm events during detailed design phases of the Boat Harbour Precinct associated with each Project Application. The Proponent undertakes to ensure that the development does not result in any significant increase in flood levels on adjacent properties. Flood impacts will not exceed those identified in Appendix F of the EA. The Proponent undertakes to ensure that flood risk will be assessed in each Project Application for consistency and compliance with the Concept Plan and compliance with the NSW Flood Plain Development Manual 2005 and Council's Flood Plain Risk Management DCP (except where inconsistent with NSW State Government Policies and Guidelines). 	Completed.	DA411/2013 Subdivision of Stage B1 and C1

<p>4.8 WATER CYCLE MANAGEMENT</p> <ul style="list-style-type: none"> The Proponent undertakes to mitigate the potential impact of the development on the environment through a Water Cycle Management Strategy which includes: <ul style="list-style-type: none"> Rainwater tanks. Grass swales. Vegetated drainage corridors. Bio-retention swales and basins. Gross pollutant traps. Wetlands. The Proponent undertakes to implement a Water Cycle Management Strategy which adopts Water Sensitive Urban Design principles and identifies measures to ensure protection of water quality within the sensitive near-shore coastal environment. The Proponent undertakes to provide multiple, connected freshwater wetlands to the north and west of the Town Centre in accordance with the Stormwater Quality Management Strategy. 	Completed.	DA411/2013 Subdivision of Stage B1 and C1
<p>4.9 HERITAGE AND ARCHAEOLOGY</p> <ul style="list-style-type: none"> The Proponent undertakes to progress works in accordance with the approved Archaeological and Heritage Protection Plans and the ss87/90 consent and permit (No 2534) of the NP&W Act. The Proponent undertakes to protect the Shellharbour Aboriginal Objects (Sites) identified as being of relatively high archaeological value in accordance with the Archaeological and Heritage Protection Plan and the consent and permit granted by the Department of Environment and Climate Change. The Proponent undertakes to notify the National Parks and Wildlife Service immediately in the event that any previously unidentified Aboriginal relics (including human skeletal material) are discovered on the site. 	Completed.	DA411/2013 Subdivision of Stage B1 and C1
<p>4.10 FLORA AND FAUNA</p> <ul style="list-style-type: none"> In accordance with the Boat Harbour Ministerial Consent, the Proponent has undertaken to compensate for any impact of the development on aquatic and terrestrial flora and fauna and their habitats by the construction of the Myimbarr Wetlands. The Proponent undertakes to enhance the environment through the use of native flora in landscaped parklands and public spaces. The Proponent undertakes to mitigate the impact of construction on flora and fauna populations through erosion and sediment control measures including: <ul style="list-style-type: none"> Diversion drains. Rapid revegetation of cleared areas. Silt fences. Stabilising drains. Use of temporary and permanent sediment traps. 	Completed.	DA411/2013 Subdivision of Stage B1 and C1
<p>4.11 NOISE, ODOUR AND AIR QUALITY</p> <ul style="list-style-type: none"> The Proponent undertakes to mitigate any excessive noise impacts by implementing appropriate measures such as low noise pavements or incorporating noise reduction features on residential facades, which will be detailed in each Project Application. The Proponent undertakes to mitigate odour impacts by adopting odour control measures which comply with Sydney Water guidelines including the reduction in septicity levels. The Proponent undertakes to meet the objectives of the NSW Action for Air Plan by: <ul style="list-style-type: none"> Minimising internal traffic generation. Providing direct pedestrian and vehicle access to the harbour foreshore. Providing continuous pedestrian access to the harbour edge. Providing pedestrian and cycle paths that access key facilities. Minimising through traffic to Bass Point and the Business Park. Encouraging public transport. Providing direct access to the arterial road network. 	Completed.	DA411/2013 Subdivision of Stage B1 and C1
<p>4.12 SOCIO-ECONOMIC IMPACTS</p> <ul style="list-style-type: none"> The Proponent undertakes to respond to social and economic impacts through increased numbers of new jobs during construction, increased local job opportunities as a result of the Business Park, increased visitor expenditure, and new expenditure and employment in retail, conferencing, restaurants and tourism. 	YES	Nil
<p>4.13 CONSULTATION</p> <ul style="list-style-type: none"> The Proponent undertakes to continue consultation with the relevant agencies, authorities and the public as pertains to each Project Application. 	YES	Nil

4.14 CRIME RISK <ul style="list-style-type: none">▪ The Proponent undertakes to incorporate best practice Crime Prevention Through Environmental Design principles into all detailed design development.	YES	Nil
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ATTACHMENT 3 – Web links to Concept Approval MP07_0027

MP 07_0027 - Shell Cove Boat Harbour Precinct, Shell Cove

Application and Declaration(1)

- [Shell Cove Preliminary Assessment.pdf](#) (5.319 MB)

Director-General's Requirements(1)

- [Director-General Requirements \(updated version\).pdf](#) (119.3 KB)

Environmental Assessment(32)

- [Appendix A - Traffic.pdf](#) (1.786 MB)
- [Appendix B - Coastal Processes.pdf](#) (1.646 MB)
- [Appendix C - Contamination.pdf](#) (335.0 KB)
- [Appendix D - Geotechnical part 1.pdf](#) (1.440 MB)
- [Appendix D - Geotechnical Part 2.pdf](#) (4.721 MB)
- [Appendix D - Geotechnical Part 3.pdf](#) (2.891 MB)
- [Appendix E - Bushfire.pdf](#) (1.151 MB)
- [Appendix F - Flood Management Part 1.pdf](#) (4.844 MB)
- [Appendix F - Flood Management Part 2.pdf](#) (2.587 MB)
- [Appendix F - Flood Management Part 3.pdf](#) (4.318 MB)
- [Appendix F - Flood Management Part 4.pdf](#) (2.860 MB)
- [Appendix F - Flood Management Part 5.pdf](#) (4.750 MB)
- [Appendix F - Flood Management Part 6.pdf](#) (2.679 MB)
- [Appendix F - Flood Management Part 7.pdf](#) (2.877 MB)
- [Appendix F - Flood Management Part 8.pdf](#) (2.917 MB)
- [Appendix G - Cultural Heritage.pdf](#) (3.012 MB)
- [Appendix H - Flora and Fauna.pdf](#) (399.5 KB)
- [Appendix I - Aquatic Ecology.pdf](#) (436.7 KB)
- [Appendix J - Air Quality and Noise.pdf](#) (1.072 MB)
- [Appendix K - Odour Control.pdf](#) (1.035 MB)
- [Appendix L - Economic Impact.pdf](#) (414.0 KB)
- [Appendix M - Social Infrastructure.pdf](#) (530.7 KB)
- [Appendix N - Open Space Guidelines.pdf](#) (4.480 MB)
- [Appendix O - Street Guidelines.pdf](#) (2.885 MB)
- [Appendix P - Estimate of Cost.pdf](#) (557.6 KB)
- [Environmental Assessment Part 1.pdf](#) (923.0 KB)
- [Environmental Assessment Part 2.pdf](#) (3.848 MB)
- [Environmental Assessment Part 3A.pdf](#) (3.744 MB)
- [Environmental Assessment Part 3B.pdf](#) (3.535 MB)
- [Environmental Assessment Part 4.pdf](#) (4.712 MB)
- [Environmental Assessment part 4.pdf](#) (4.712 MB)
- [Environmental Assessment Part 5 and 6.pdf](#) (276.6 KB)

Response to Submissions(10)

- [Appendix 1 Schedule of Issues.pdf](#) (13.97 KB)
- [Appendix 2A.pdf](#) (81.08 KB)
- [Appendix 2B.pdf](#) (648.0 KB)
- [Appendix 2Ca.pdf](#) (9.540 MB)
- [Appendix 2Cb.pdf](#) (966.5 KB)
- [Appendix 2D.pdf](#) (58.84 MB)
- [Appendix 2E.pdf](#) (3.078 MB)
- [Appendix 2F.pdf](#) (196.1 KB)
- [Appendix 2G.pdf](#) (6.010 MB)
- [Preferred Project Report.pdf](#) (6.994 MB)

Determination(5)

- [Approved Concept Plan - Open space, pedestrian and bicycle network.pdf](#) (360.1 KB)
- [Approved Concept Plan.pdf](#) (584.4 KB)
- [Concept Approval.pdf](#) (659.4 KB)
- [Director-General's Report.pdf](#) (126.9 MB)

- [Statement of Commitments.pdf](#) (1.666 MB)

ATTACHMENT 4 – Site Photos – 26 September 2016



Figure A4.1 – Harbour Boulevard (East side) – Looking South



Figure A4.2 – Harbour Boulevard (West side) – Looking South



Figure A4.3 – Lane No.7 (6.0m wide) – Looking South



Figure A4.4– Street No.1 (15.5m wide) – Looking East



Figure A5.5 – Street No.7 (8m wide) – Looking West



Figure A4.6 – Street No.1 (15.5m wide) – Looking South- East

ATTACHMENT 5 – Aerial Photos – 26 September 2016



Figure A6.1– Boat Harbour – Looking North



Figure A6.2 – Boat Harbour – Looking South

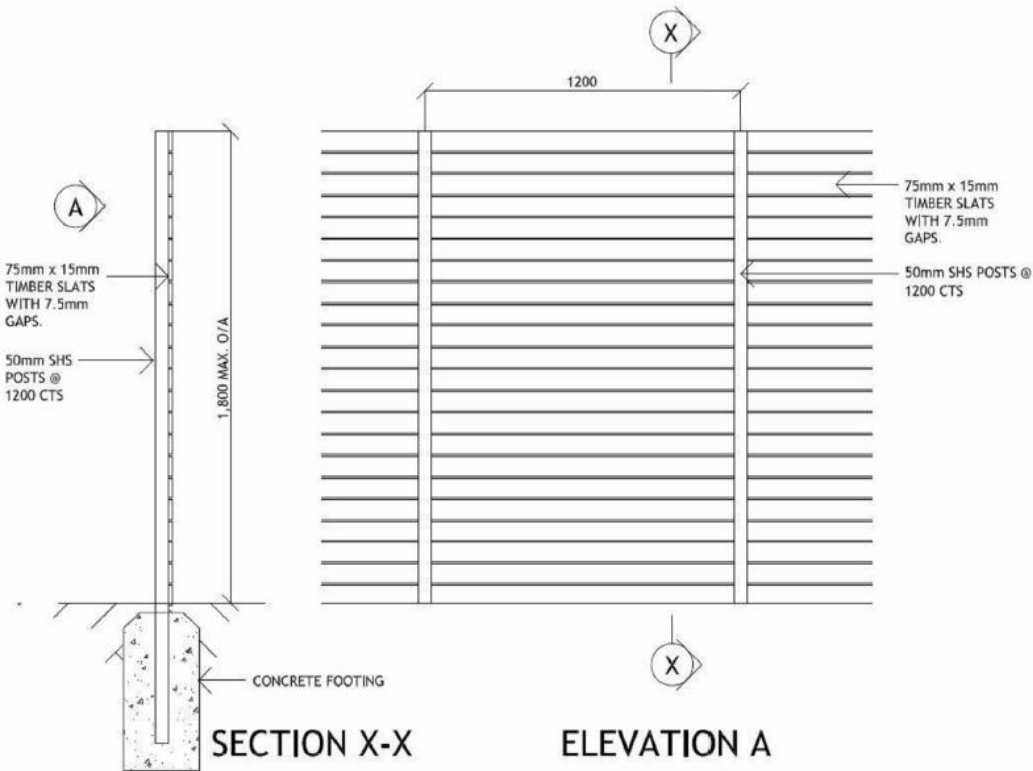


Figure A6.3 – Boat Harbour Entrance – Looking West



Figure A6.4– Boat Harbour– Looking West

ATTACHMENT 6 –Fence Detail



1800 HIGH FEATURE HORIZONTAL SLAT FENCE

NTS



Aluminium powder coated front fencing detail
Scale 1 : 5

ATTACHMENT 7 – Design Guidelines Medium Density Housing