

SOUTHERN REGIONAL PLANNING PANEL

SUPPLEMENTARY MEMO

SRPP No	2018STH007
DA Number	619/2017
Local Government Area	Shellharbour
Proposed Development	Torrens title subdivision comprising of 58 residential lots, six (6) superlots, one (1) lot for future boat maintenance facility, one (1) public reserve & three (3) residue lots.
Location	Lots 4002 & 4003 DP 1235539, Harbour Boulevard Shell Cove
Applicant / Owner	Australand Corporation (NSW) Pty Ltd (Frasers Property) / Shellharbour City Council
Recommendation	That SRPP No. 2018STH007 (DA No. 691/2017) be approved subject to the schedule of conditions contained in Attachment 1 of the SRPP No. 2018STH007 (DA No. 691/2017) Planning Assessment Report dated 3 December 2018.
Memo prepared by	Victoria Nicholson, Senior Development Assessment Officer
Date of report	7 December 2018

1. Purpose of supplementary memo

The purpose of this supplementary memo is to address *Shellharbour Local Environmental Plan 2013* (SLEP 2013) clause 5.5 Development within the coastal zone. Consideration of SLEP 2013 clause 5.5 was omitted in the SRPP No. 2018STH007 (DA No. 691/2017) Planning Assessment Report dated 3 December 2018.

Clause 5.5 of the *Standard Instrument – Principal Local Environmental Plan* was repealed as part of the new coastal management framework realised with the gazettal of *State Environmental Planning Policy (Coastal Management) 2018*. SLEP 2013 clause 5.5 however, continues to form part of the matters for consideration under section 4.15 of the *Environmental Planning & Assessment Act 1979* (EP&A Act) pursuant to the *Standard Instrument (Local Environmental Plans) Order 2006* clause 8, as follows:

8 Application of amending orders

- (1) The amendments made by an amending order do not apply to or in respect of any development application that was made, but not determined, before the commencement of the amending order.
- (2) In issuing a certificate under section 65 of the Act that a draft local environmental plan submitted to the Secretary under section 64 of the Act has been prepared in accordance with the standard instrument prescribed by this Order, the Secretary may (but is not required to) take into account any amendment made to the standard instrument by an amending order after the date on which the draft local environmental plan was submitted.
- (3) In this clause:
amending order means an order under section 33A of the Act that amends the standard instrument prescribed by this Order

SLEP 2013 clause 5.5 was repealed 3 April 2018. SRPP 2018STH007 (DA 619-2017) was lodged with Shellharbour City Council on 18 December 2017.

Assessment - SLEP 2013 clause 5.5

The assessment of the proposal against the provisions of SLEP 2013 clause 5.5 is to be read in the aforementioned Report as part of the relevant statutory matters for consideration, and proceeding **Clause 5.10 Heritage**, as follows:

- 4 Relevant legislation & statutory planning
- 4.1 Environmental Planning and Assessment Act 1979 (EP&A Act) – 4.15 Evaluation
- 4.1.1 **Section 4.15(1)(a)(i) – the provisions of any environmental planning instruments**
 - Shellharbour Local Environmental Plan 2013*
 - Part 5 Miscellaneous provisions**

Clause 5.5 Development within the coastal zone

The objectives and provisions of clause 5.5 apply to the proposal as the development site is land within the coastal zone.

The Objectives of this clause are:

- (1)(a) to provide for the protection of the coastal environment of the State for the benefit of both present and future generations through promoting the principles of ecologically sustainable development
- (b) to implement the principles of the NSW Coastal Policy

Clause 5.5 subclauses (2) and (3) identify matters that must be considered by a consent authority and matters that the consent authority must be satisfied, respectively, prior to the granting of a development consent for development on land within the coastal zone.

The provisions of clause 5.5 essentially reflect those of *State Environmental Planning Policy No. 71 – Coastal Protection* (SEPP 71). As the aforementioned Report finds that the development proposal is consistent with relevant requirements of SEPP 71, the proposal is consistent with clause 5.5, in particular the proposal:

- a. will not adversely impact on Aboriginal cultural heritage and places subject to the imposition of conditions;
- b. will not adversely impact existing public access to and along the coastal foreshore;
- c. will not adversely impact on the visual amenity and scenic qualities of the coast;
- d. will not adversely impact on views from public places or solar access of the coastal area;
- e. will not adversely affect biodiversity and ecosystems subject to the imposition of conditions;
- f. will not have a significantly impact on coastal hazards, increase the risk of coastal hazards on other land, or be significantly affected by coastal hazards; and
- g. is acceptable having regard to the cumulative impact of the proposal and other developments within the coastal catchment.

The development proposal is sited, designed and will be managed to avoid adverse impacts on matters identified in subclauses (2) and (3).

The development proposal is consistent with SLEP 2013 clause 5.5 objectives.

Supplementary Memo

SRPP No. 2018STH007 (Development Application No. 619/2017)
Lots 4002 & 4003 DP 1235539, Harbour Boulevard Shell Cove

2. Recommendation

The recommendation made in the aforementioned Report remains the same having regard to the above 'clause 5.5' assessment of the development proposal. Further, this assessment does not require the addition and/or modification of the schedule of recommended conditions provided in Attachment 1 of the aforementioned Report.
