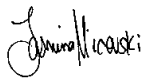
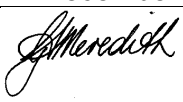


## Supplementary Report SRPP No: 2018STH025

<b>SUPPLEMENTARY MEMO SRPP No</b>	<b>2018STH025</b>
DA Number	DA0287/2018
Local Government Area	Shellharbour
Proposed Development	<p>Staged subdivision to include:</p> <p><b>Stage 1</b> Residential subdivision of Precinct B2/C2 and creation of 5 superlots for future residential subdivision (lots 3001, 3002, 3003, 3004 &amp; 3005) with earthworks, services, road network, civil infrastructure, landscaping and 3 residue lots (3000, 3006 &amp; 3007).</p> <p><b>Stage 2</b> Residential subdivision of residue lot 3007 in Precinct C2 and creation of 4 superlots for future residential subdivision (lots 3008, 3009, 3010 &amp; 3011) with earthworks, services, road network, civil infrastructure and landscaping. (Precincts B2 /C2 land subdivision)</p>
Location	Shell Cove
Applicant / Owner	Australand Corporation (NSW) Pty Ltd (Frasers Property) / Shellharbour City Council
Recommendation	That SRPP No. 2018STH025 (DA0287/2018) be approved subject to the schedule of conditions contained in Attachment 1 of the SRPP No. 2018STH025 (DA No. 0287/2018) Planning Assessment Report dated 12 November 2018.
Memo prepared by	<p>Jasmina Micevski – Manager, Planning</p> 
Date of report	11 December 2019
Endorsed Grant Meredith – Group Manager – City Development	

### Purpose of Supplementary Report

The Southan Regional Planning Panel at its meeting of 26 November 2019 resolved to defer development application number DA0287/2018, SRPP No. 2018STH025 subject to a number of items that need to be addressed to allow further consideration of the proposal.

Below is a summary of these matters have been addressed.

**Table 1 SRPP Reasons for Deferral**

Item	Reason	Response
1(i)	Details of the amendments to the originally submitted DA documentation	Refer to Section 1 below
1(ii)	Compliance with the relevant conditions and statement of commitments in the Concept Approval as modified	Compliance tables have been prepared which demonstrate the DA complies with the relevant conditions and commitments. Refer to <b>Attachment A</b> . Note that technical reports supporting this are appended to the SEE.

Item	Reason	Response
1(iii)	Compliance with the Urban Design Guidelines and the relevant date of adoption and details of the relevant provisions including minimum lot size	A compliance table has been prepared which demonstrates that the DA complies with the relevant sections of the Urban Design Guidelines. Refer to <b>Attachment B</b> and Section 3.
1(iv)	History of relevant previous approvals affecting the site	Refer to Section 4 below
1(v)	Specific details of: <ul style="list-style-type: none"> <li>Finished levels</li> <li>Running total of dwelling yields throughout Shell Cove</li> <li>Retaining walls and relative height</li> </ul>	Refer to Section 5 below and <b>Attachment C to C1</b>
1(vi)	Further information on any biodiversity outcomes of the Concept Approval and how the current proposal meets them and how it satisfies Clause 6.5 of the LEP, including details of an updated on-site visit by Council staff.	Refer to Section 6 below.
1(vii)	Review of the conditions to remove duplications and inconsistencies; edit to remove ambiguities and clarify outcomes sought, and respond to additional information	Refer to Section 7 below.

### 1. Deferral matter 1(i) Details of the Amendments to the DA

The following changes have been made to the application since it was originally submitted to Council on 19 June 2018:

- Updated civil design drawings showing the amendment of laneways design and revised interface levels with future apartments sites (**Attachment C-C1**);
- Updated landscape drawings to be consistent with updated civil design drawings (**Attachment D**);
- Updated flooding report modelling revised civil design levels (**Attachment E**);
- Updated Subdivision Plans showing proposed registration staging strategy (**Attachment F**);
- Updated Medium Density UDGs following receipt of Council comments; and
- Provision of an updated Statement of Environmental Effects encompassing the above (**Attachment G**).

### 2. Deferral matter 1(ii) Concept Approval

An assessment against the Concept Approval and Statement of Commitments is at **Attachment A**.

### 3. Deferral matter 1(iii) Urban Design Guidelines

In guiding future development within Precinct B2 and C2, design guidelines have been prepared for medium density housing and apartments. The Design Guidelines for Medium Density Housing and Apartments (DGMDHA) for Precinct B2 and C2 were endorsed by Shellharbour City Council on 17 June 2019. They have been considered in terms of character and general design consistency for the Precinct (**Attachment A**).

#### 4. Deferral matter 1(iv) Relevant Approvals

In November 1996, the former Minister for Urban Affairs and Planning approved DA 95/133 which included a boat harbour and marina to be located south-east of the Shellharbour City Centre. This was then followed by a Concept Plan Application in February 2010 for the Shell Cove Boat Harbour Precinct (MP07\_0027) under Part 3A of the Environmental Planning and Assessment Act 1979 (EP&A Act).

The Concept Plan Application sought consent for the development of a 100-hectare precinct surrounding the Shell Cove Boat Harbour and Marina. The development is identified as the Shell Cove Boat Harbour Precinct and consists of residential, commercial and community development that includes retail, hotel accommodation, a business park, dry boat storage facilities, open space and wetlands. Precincts B2 and C2 are located within the Boat Harbour and are identified to accommodate residential land uses.

On 18 March 2019 a modification to the Concept Plan (MP07\_0027 MOD 1) was approved by the Independent Planning Commission. The approval granted consent to the following modifications, including:

- a. increase to the maximum number of dwellings to 1,566;
- b. revised housing densities and typologies across the site;
- c. removal the maximum residential gross floor area limit of 150,000m<sup>2</sup>;
- d. reconfiguration of the town centre layout;
- e. increase to the maximum building heights in certain areas;
- f. provision of a maximum building height in metres;
- g. addition of 'serviced apartments' and 'residential accommodation' as permissible uses within the hotel building;
- h. the addition of 8,280m<sup>2</sup> of land to the site area;
- i. changes to the road pattern and layout;
- j. provision of acoustic walls in place of landscape moulds surrounding the marina commercial land use; and
- k. amendments to the Statement of Commitments.

In terms of planning assessment, the Ministerial Approval under Part 3A of the Concept Plan for The Shell Cove Boat Harbour Precinct takes precedence over Council's Planning Instruments and establishes the planning framework. The transitional arrangements introduced during the NSW Government's repeal of the former EP&A Act's Part 3A provisions states that a consent authority must not grant consent to development unless it is satisfied that the development is generally consistent with the terms of an approved concept plan (Schedule 2 clause 3B2(f) of the *Environmental Planning and Assessment (Savings Transitional and Other Provisions) Regulation 2017*) (EP&A (Transitional) Reg). Therefore, the provisions of an Environmental Planning Instrument do not have effect if they are inconsistent with the terms of approval of the Concept Plan (Mod 1).

This DA seeks consent for the subdivision of Precinct B2 and C2 and is generally consistent with the Concept Plan (Mod 1), reflecting the transition from broad concept design to precinct design. The DA's consistency is demonstrated by the assessment.

The land is currently having earthworks occur on the site of the entire waterfront precinct. This work is approved by Notice of Determination DA0133/1995.

## 5. Deferral matters 1(v) Site Specific Details

The following site-specific details are provided in response to the deferral matters.

### Finished levels

Finished levels are shown on the Engineering Plans and range from 2m AHD to approximately 7.2m AHD. Refer to plans C-B2C2-301 through C-B2C2-308 as extracted at **Attachment C1**.

### Running total of dwelling yields throughout Shell Cove

The following table provides the current dwelling yields throughout Shell Cove. The table demonstrates that the distribution of dwelling yields are consistent with the Concept Approval distribution of dwelling yields within the precinct.

**Table 2 Dwelling Yields in Shell Cove**

Reduced visitor parking rate scheme			
Stage (SAP WBS)	Land	MD	Apt
R-0006-19 Stage 51 Precinct E housing		13	
R-0006-20 Stage 52 Precinct E housing		5	
R-0006-26 Stage 55 Precinct E housing		18	
R-0006-27 Stage 56 Precinct E Apartments			64
R-0006-28 Stage 57 Precinct E housing		12	
R-0006-29 Stage 58 Precinct E housing		10	
R-0006-31 Stage 59 Precinct E housing		22	
R-0006-32 Precinct A Housing		57	
R-0006-35 Stage B2 Apartments			116
R-0006-53 Stage 95/96 Prec Housing C1		14	
R-0006-56 Stage 101/102 Prec Housing C1		14	
R-0006-69 Stage 97/98 Prec Housing B1		23	
R-0006-70 Stage 89/91 Prec Housing B1		18	
R-0006-71 Stage 90/92 Prec Housing B1		22	
R-0006-72 Stage 93 Prec Housing B1		10	
R-0006-73 Stage 94 Prec Housing B1		8	
R-0006-74 Stage 99/100 Prec Housing C1		24	
R-0006-90 Boat Harbour Precinct B2/C2		69	81
R-0006-91 Boatharbour Prec 1(Precinct A)	58		
R-0006-92 Boatharbour Prec 2(Precinct B)	62		
R-0006-93 Boatharbour Prec 3(Precinct C)	26		
R-0006-94 Boatharbour Prec 4(Precinct D)			146
R-0006-95 Boatharbour Prec 5(Precinct E)	58		
R-0006-96 Boatharbour Prec 6(Precinct F)	42	80	120
R-0006-97 Boatharbour Prec 7(Precinct G)			
R-0006-98 Boatharbour Prec 8(Precinct H)	70	20	119
Duplex Land Lots - second dwelling maximum	40		
Town Centre Hotel site			42
Aqua wholly owned			45
	356	454	733

Source: Frasers

### Retaining walls and relative height

There are no retaining walls proposed in Precincts B2 or C2.

## 6. Deferral matter 1(vi) Biodiversity Outcomes

Impacts to flora and fauna was considered under the Concept Approval and found that proposed impacts were acceptable. Work has since commenced under the approval. A Flora and Fauna assessment was undertaken by Kevin Mills & Associates as part of the Concept Approval Modification 1, which confirmed that the proposed development was not likely to have a significant impact upon threatened species, populations or communities. This was not raised as a significant issue as part of the DPIE's environmental assessment of the modification.

It is noted that the Concept Plan (Mod 1) Consent takes precedence over local government planning instruments, including the *Shellharbour Local Environmental Plan 2013* and *Shellharbour Development Control Plan 2013*. Accordingly, the assessment of each stage of the Shell Cove Boat Harbour Precinct will be required against the Section 75W (former Part 3A) conditions of consent.

The site is not mapped under the Terrestrial Biodiversity Mapping of the LEP, and therefore Clause 6.5 of the LEP does not apply:

#### **6.5 Terrestrial biodiversity**

- (1) *The objective of this clause is to maintain terrestrial biodiversity by—*
- (a) *protecting native fauna and flora, and*
  - (b) *protecting the ecological processes necessary for their continued existence, and*
  - (c) *encouraging the conservation and recovery of native fauna and flora and their habitats.*
- (2) *This clause applies to land identified as “Environmentally Sensitive Land” on the Terrestrial Biodiversity Map.*
- (3) *Before determining a development application for development on land to which this clause applies, the consent authority must consider—*
- (a) *whether the development is likely to have—*
    - (i) *any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and*
    - (ii) *any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and*
    - (iii) *any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and*
    - (iv) *any adverse impact on the habitat elements providing connectivity on the land, and*
  - (b) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*
- (4) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—*
- (a) *the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*
  - (b) *if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or*
  - (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*



 Environmentally Sensitive Land

**Figure 1 Terrestrial biodiversity mapping for Shell Cove (northern half)**  
Source: Shellharbour LEP



**Figure 2 Terrestrial biodiversity mapping for Shell Cove (southern half)**  
Source: Shellharbour LEP

A further inspection occurred on the Thursday the 5<sup>th</sup> of December. It was observed that the site is an active development site with a lot of earth moving vehicles and a dynamic and changing environment, the water channels would be constantly changing depending on the weather patterns and earth moving on site.

There is limited opportunity for threatened species such as the Green and Golden Bell frog to inhabit such a disturbed site or any other vegetation or fauna. Hares were observed on site with shows the level of disturbance, construction staff also commented that foxes have been sighted, more than likely coming in from surrounding areas for short periods of time.

The below image demonstrate the extent of earth works currently taking place.



**Figure 3 Site inspection photo dated 5 December 2019**

## **7. Deferral matter – Review of conditions**

The conditions have been reviewed with duplications removed and further conditions edited to provide clarity in the Staging approach. Refer **Attachment H**.

## 8. Recommendation

That conditional development consent is granted to SRPP No. 2018STH025 (DA No. 287/2018) for the subdivision of Land to Include nine (9) Superlots – 7 of which are Designated for Future Medium Density Integrated Housing Development and 2 for Future Residential Flat Buildings, 2

Residual Lots, Civil Infrastructure – Road Construction, Stormwater Drainage and Water Quality Treatment Devices, Earthworks, Public Domain Works Including Street Tree Planting and Footpaths Within the Subdivision. (Precincts B2 /C2 land subdivision) for the following reasons:

- a. the subdivision development is in the public interest for the reasons provided in 4.1.9 Section 4.15(1)(e) – the public interest of the Council Planning assessment report dated 12 November 2019 and this supplementary report, and
- b. the proposal is generally consistent with the terms of the approval of the concept plan MP07\_0027 as modified by MOD 1 and Statement of Commitments schedule.

The schedule of recommended conditions is included at **Attachment H**.