

JRPP No:	2012STH010
DA No:	Development Application No. 104/2012
PROPOSED DEVELOPMENT:	A senior living development to comprise of a four stage development to result in 98 Self-Contained Dwellings/Service Self-Care Housing, a 128 single bed Residential Aged Care Facility and basement and at grade parking with a total of 187 vehicle parking spaces Lot 8201, DP 1153225, Cutter Parade, Shell Cove
APPLICANT:	Hodges Shorten Architects Pty Ltd
REPORT BY:	Jasmina Micevski Senior Development Assessment Officer Shellharbour City Council Locked Bag 155 SHELLHARBOUR CITY CENTRE NSW 2529

Assessment Report and Recommendation

1. PURPOSE OF REPORT

The purpose of this report is to seek a determination from the Joint Regional Planning Panel (the Panel) of a development application (DA) proposing a housing development for seniors or people with a disability.

The Panel is the determining authority for this DA pursuant to Part 3 of Schedule 4A of the Environmental Planning and Assessment Act 1979 (the Act), as the capital investment value (CIV) exceeds the CIV threshold of \$20 million (for general development) for Council to determine the application.

2. SUMMARY OF RECOMMENDATION

It is recommended that the Panel approve Development Application No. 104/2012 for a senior living development to comprise of a four stage development to result in 98 Self-Contained Dwellings/Service Self-Care Housing (SCD), a 128 single bed Residential Aged Care Facility (RACF) and basement and at grade parking with a total of 187 vehicle parking spaces at Lot 8201, DP 1153225 Cutter Parade, Shell Cove, subject to conditions.

3. BACKGROUND

The Shell Cove urban release area was zoned residential in 1997. Shell Cove is a master planned estate currently being developed by Shellharbour City Council (SCC) and Australand Corporation (NSW) Pty Ltd. When completed, the development will create approximately 3,000 residential lots, a 300 berth marina constructed within an in-shore boat harbour, community parks, cycleways, and a range of commercial, retail, tourist, community and recreational facilities.

4. THE SITE

The subject site is described as Lot 8021 DP 1153225 Cutter Parade, Shell Cove.

The total site area is 2.54 hectares and was previously used as a golf course. The land contains grassland and scattered trees, while remaining relatively level in topography.

The site will front three different roads of which two are yet to be constructed. Access to the site is currently provided from Cutter Place which is located on the east side. This frontage has a length of approximately 190m. The southern boundary will face Brigantine Road and the eastern boundary will face the future Harbour Boulevard. These roads, once constructed, will have a frontage of approximately 90m and 211m long respectively.

Cutter Parade is a local road, Brigantine Road a collector road while Harbour Boulevard, will be the main sub-arterial access road to the future Shell Cove Boat Harbour Precinct. Harbour Boulevard is approved to provide a two lane median divided carriageway.

In context of the *Shell Cove Master Plan*, the site sits between a developing residential area to the west and the future boat Harbour precinct to the south.

In 2004 and during the evolution of the release area various lots were nominated as a 'Medium Density Housing' lots. The subject site is one of these nominated lots.

A plan illustrating the location of the development stage is attached to this report (Attachment 1)

5. THE PROPOSAL

The application seeks development approval for a four stage development to result in 98 SCD, a 128 single bed RACF, basement and at grade parking totaling 187 vehicle parking spaces. The stages are defined as follows:

- Stage 1: Remediation of land, construct x 1 two storey building comprising 32 SCD and basement parking to accommodate 50 spaces. Establishment of main site entry off Harbour Boulevard and temporary access way off Cutter Parade. Construct open space areas and village green.
- Stage 2: Extend basement parking to increase parking spaces by 31. Construct x 1 two storey building and x 1 three storey building to result in 31 SCD.
- Stage 3: Extend basement parking to increase parking spaces by 43. Construct x 1 two storey building and x 1 three storey building to result in 35 SCD.
- Stage 4: Extend and complete basement and at grade parking spaces. Construct x 1 two storey 128 single bed RACF with facilities which includes back of house section, activity centre for residents, dining areas for residents and commercial/retail floor area for a hairdresser and small shop, administration offices.

Upon completion of the development, staff and service vehicles will access the parking and service areas from Brigantine Drive. Residents and visitors will initially access the site from Cutter Parade, however, it is anticipated that the main entrance to the development will be from the future Harbour Boulevard and thereafter the Cutter Parade access point will become closed to general resident traffic and used for pedestrian foot access and emergency vehicles only. The matter of timing and delivery of the Harbour Boulevard is discussed in section 8.6.3 of the report.

A copy of the proposed plans is provided at the end of this report (Attachment 2).

6. NOTIFICATION

The application was publicly notified for a period of 21 days between 12 April 2012 and 2 May 2012. A total of 135 properties were notified and a newspaper notification was placed in the local newspaper.

During the exhibition period 43 submissions were received.

7. PLANNING CONTROLS

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

- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
- State Environmental Planning Policy No. 55: Remediation of Land
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy 71 - Coastal Protection
- State Environmental Planning Policy No. 65: Design Quality of Residential Flat Development
- Illawarra Regional Environmental Plan No 1 (now deemed SEPP)
- Shellharbour Local Environmental Plan 2000
- Exhibited Draft Shellharbour Local Environmental Plan 2012
- Shell Cove Development Control Plan
- Medium Density Development Control Plan
- Waste Minimisation and Management Development Control Plan
- Notifications Development Control Plan
- Shellharbour City Council Car Parking Policy
- Social Impact Assessment Policy
- Storm water Policy

8. ASSESSMENT

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

The following comments are made with respect to the proposal:

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

8.1.2 State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP Senior Living)

The SEPP Senior Living aims to increase the supply and diversity of housing for seniors or people with a disability, and to ensure good design. The policy applies to this development and an assessment against the relevant clauses is provided below:

Clause 4 Land to which Policy applies - The site is zoned 2(f) Mixed Use Residential. Dwelling houses are permissible with consent allowing the application of the SEPP Senior Living.

Clause 8 Seniors - A restriction as to user is to be registered against the title of the property limiting the use of the self-contained dwellings, hostels and residential care facility to people aged 55 or more years, or residents of a residential care facility or people eligible to occupy aged housing provided by a social housing provider. It is a recommended development consent condition that this occurs.

Clause 10 Senior Housing - The proposal will comprise of a RACF as well as SCD.

Residential Aged Care Facility is defined as *residential accommodation for seniors or people with a disability that includes:*

- a. *meals and cleaning services, and*
- b. *personal care or nursing care, or both, and*
- c. *appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care, not being a dwelling, hostel, hospital or psychiatric facility.*

Self-contained dwellings are defined as a dwelling or part of a building (other than a hostel), whether attached to another dwelling or not, housing seniors or people with a disability, where private facilities for significant cooking, sleeping and washing are included in the dwelling or part of the building, but where clothes washing facilities or other facilities for use in connection with the dwelling or part of the building may be provided on a shared basis.

More specifically, the self contained dwellings will be *serviced self-care housing that consists of self-contained dwellings where the following services are available on the site:*

- *meals*
- *cleaning services*
- *personal care*
- *nursing care*

Such services will be made available by the operator of the site, Warrigal Care.

Clause 26 Location and access to facilities - The site does not currently have any suitable access pathways to facilities noted within sub clause (1). The site is located within an urban release area which is yet to fully developed. Notwithstanding, the development satisfies this clause by the following:

- a. the Statement of Environmental Effects (SEE) states that development will provide facilities within the complex based on the 'Humanitas model' which promotes '*carefully designed apartment complexes offering services such as medical, daily care, recreational, educational and social, up to and including nursing home care*'. As part of this approach, there will be floor area within the RACF which is proposed to be occupied by a hairdresser and small shop.

- b. the senior living development is located approximately 400m from the future Shell Cove boat harbor precinct.
- c. Warrigal Care has a bus network for residents which service all their RACF and SCD within the area. As required by sub-clause 26(b) conditions will be imposed that the services are made available as required by sub-clause 26(b)(iii).

Clause 27 Bushfire - In accordance with the bushfire prone land map, the land is not shown as being bushfire prone land.

Clause 28 Water and sewer - The development is capable of being serviced with water and sewer.

Clause 30 Site Analysis - The application provided a detailed site analysis as required by this clause.

Clause 32 Design of residential development - A summary of outcomes satisfying each clause within Division 2 is below (Clauses 33-39).

Clause 33 Neighbourhood amenity and streetscape - The development site is located on the fringe of the evolving Shell Cove Urban Release Area and fronts the future Harbour Boulevard which will connect to the commercial and retail precinct. The design of the proposal is consistent with sub clause (a) in that it will become a major entry feature to the Shell Cove precinct which will contribute to the quality and identity of the area as required by this clause.

Furthermore, the height of two storeys toward the outer sections of the site and a limited three storey section internally is not out of character with the predominately two storey residential development within Shell Cove. The design will be consistent with the outcomes described in this clause.

Clause 34 Visual and acoustic privacy - Transparent glazed balustrade has been provided to the principal private open space area for SCD on the first, second and third floors, however, no fence/balustrade has been provided to these areas on the ground floor dwellings. To ensure both acoustic and visual privacy is maintained it is recommended that conditions be imposed to require:

1. all balustrade to be tinted in colour to ensure both looking inward is minimized, and
2. requirement that all principal private open space areas on the ground floor to be provided with a solid privacy screen.

The acoustic report was produced by Renzo Tonin & Associates. The report provides recommendations how the development is to achieve internal noise levels in the context of the *State Environmental Planning Policy (Infrastructure) 2007* where it assumes vehicle volumes of 40,000 per day (actual volumes for Harbour Boulevard are modelled at 15,200 vehicles). All recommendations within that report have been imposed as development consent conditions.

Clause 35 Solar access and design for climate - The site will have three road frontages which provide a buffer for overshadowing onto neighboring residential properties. Internally, solar access into the SCD living areas complies with the requirements of this clause.

The design verification statement states that the development aims to achieve 5 Star, Green Star accreditation. Vim Sustainability was engaged to consult in the context of environmental sustainable design. Within the statement, Vim state that '*One of the key planks of this strategy is the adoption of an Adaptive Comfort Standard (ASHRAE-55-2004) within the building which*

then leads to an understanding and acceptance of the value of natural ventilation as the prime cooling methodology across the facility. The outcome of the adoption of this strategy has more impact on the reduction in energy use, carbon emissions and resource wastage by the facility than any other operational initiative'.

Clause 36 Stormwater - The development maximises the use of water permeable surfaces on the site by achieving above the minimum standard for deep soil zones. As a result, this minimise the disturbance and impacts of stormwater runoff on adjoining properties as advocated within subclause 36(a). Furthermore, underground water tanks will be provided as part of the development which will act as an alternative supply to water mains as required by subclause 36(b).

Clause 37 Crime Prevention - Given the scale of development there are a number of issues that arise as a result of an assessment undertaken in the context of Safer by Design principals. The following points have been considered and recommended to be incorporated as conditions of consent.

- a. A lighting strategy is to be developed to encourage safety and passive surveillance by addressing the following:
 - i. lighting of all entrances/exits of buildings, car parks, access routes and pathways to encourage safety and passive surveillance,
 - ii. lighting type and distribution to be provided throughout the site to eliminate any dark shadows and concealment areas particularly in the car park and stairwells.

Access control to and from the buildings as well as individual independent living units shall be modified to require the principal private open space areas for apartment type A2, A3 and A4 to be delineated with a solid privacy screen similar. The screen shall include a lockable gate to facilitate controlled access to the courtyard area, and
- b. Develop a Plan of Management for the site to develop a graffiti removal strategy in the event of such vandalism occurring throughout the site.

Clause 38 Accessibility - Pedestrian pathways meander throughout the site. Externally, the design of Harbor Boulevard will provide footpaths which will connect to public transport services and local facilities as required by sub-clause (a). Furthermore, separate pedestrian and vehicle access points are provided throughout the site as noted within sub-clause (b).

Clause 39 Waste management - The waste management plan states that *'waste will be disposed of and sorted at the residential level via garbage chutes that drop into the basement. Maintenance staff will trolley the garbage within the underground garbage rooms and the primary pick up point will be from the Brigantine Drive access'*. This process recommended to be incorporated as conditions of consent.

Clause 40 Development standards, minimum sizes and building height

- a. Site size - The site has an area of 2.54 hectares which is greater than the SEPP's 1,000m² minimum requirement.
- b. Site frontage - The standard requires a minimum frontage of 20m at the building line. The site will have a frontage on the future Harbor Boulevard of approximately 211m.
- c. Height in zones where a residential zone are not permitted - Residential flat buildings are not explicitly defined under *Shellharbour Local Environmental Plan 2000*, however, it is taken that the built form together with the dwelling yield is consistent with the definition of medium density housing as defined within Council's *Shellharbour Local Environmental*

Plan 2000. Under the dictionary, medium density housing is defined as 'a building or group of buildings containing three or more dwellings located on a single parcel of land'. This is consistent with the advice received from the Department of Planning and Infrastructure, dated 27 July 2011 (Attachment 3).

Division 2 Residential care facilities - standards concerning accessibility and usability -

The provisions within this section are able to be conditioned to ensure the Commonwealth aged care accreditation standards and *Building Code of Australia* are met at the Construction Certificate stage.

Clause 41 Standards for hostels and self-contained dwellings - The provisions within Schedule 3 are to be considered under this clause. A summary of outcomes have been provided below.

Wheelchair access - access within the site does not exceed 1:20. This also includes an access pathway from Harbor Boulevard. Conditions have been imposed to require the gradient to be verified prior to the Occupation Certificate being issued for each stage.

An assessment has been undertaken on the other requirements contained under the schedule. Where the level of detail has not been provided at the DA stage, it is acceptable to impose the required development consent conditions to ensure compliance is demonstrated at the Construction Certificate stage.

Clause 48 Standards that cannot be used to refuse development consent for residential care facilities

Standard	Control	Comment
building height	if all proposed buildings are 8m or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to two storeys).	Refer to section 8.1.7 of this report.
density and scale	if the density and scale of the buildings when expressed as a floor space ratio is 1:1 or less.	Complies. The total floor area of the entire development is 0.8:1.
landscaped area	if a minimum of 25sqm of landscaped area per residential care facility bed is provided.	Complies. 3,200sqm is required for 128 beds. The total landscape area for the RACF is 4,617sqm.
parking for residents and visitors	<ul style="list-style-type: none"> - one parking space for each 10 beds in the residential care facility (or one parking space for each 15 beds if the facility provides care only for persons with dementia), and - one parking space for each two persons to be employed in connection with the development and on duty at any one time, and - one parking space suitable for an ambulance. 	Complies. Refer to section 8.6.3 of this report.

Clause 50 Standards that cannot be used to refuse development consent for self-contained dwellings

Standard	Control	Comment
building height	if all proposed buildings are 8m or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to two storeys).	Refer to section 8.1.7 of this report.
density and scale	if the density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less.	Refer to section 8.2.1 of this report.
landscaped area	a minimum of 30% of the area of the site is to be landscaped.	Site area = 15,550sqm. 30% of site area = 4,545sqm. Actual landscape area is 6,130sqm
Deep soil zones	15% of the area of the site. Two-thirds of the deep soil zone should preferably be located at the rear of the site and each area forming part of the zone should have a minimum dimension of 3m.	Complies. Deep soil of SCD site = 6,130sqm (40.46%)
solar access	if living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of three hours direct sunlight between 9.00am and 3.00pm in mid-winter	Complies. 80 of the 98 units will achieve a minimum of 3 hours direct sunlight (81.6%). Remainder units are south facing.
private open space for in-fill self-care housing	<ul style="list-style-type: none"> - Ground floor units = 15sqm with minimum dimensions 3m x 3m. - Any other dwellings = Balcony min 10sqm minimum dimension 2m length or width from living area. 	<ul style="list-style-type: none"> - Complies. The ground floor units comprise of either a terrace/balcony area as well as a courtyard area which provide the minimum requirements. - All other dwellings exceed 10sqm and minimum dimension of 2m.
parking for residents and visitors	<ul style="list-style-type: none"> - 0.5 car spaces for each bedroom where the development application is made by a person other than a social housing provider, or - one car space for each five dwellings where the development application is made by, or is made by a person jointly with, a social housing provider. 	Complies. Refer to section 8.6.3 of this report.

8.1.3 State Environmental Planning Policy No. 55: Remediation of Land (SEPP)

The Statement of Environmental Effects states the following:

This development application is accompanied by a Preliminary Contamination Assessment prepared by Douglas Partners dated 13th November 2008, of which 10 test pits were excavated for testing.

The results indicated that all samples are within health based investigation levels and provisional phytotoxic based investigation levels, except for three samples which exceeded the background range for mercury, and one for Deildrin, likely attributed to the application of fertilisers and pesticides.

The Assessment indicates that the site can be made suitable for residential development following the removal of surface fill material in tee boxes and greens, with the residual soil to be validated after the removal. This will occur as the first stage of works on the site following the obtaining of development consent and a construction certificate.

Based on the above, conditions have been imposed to ensure the appropriate validation occurs prior to the issue of any works for building.

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

BASIX Certificates for the residential component of the development have been submitted and confirm that the proposed development meets the NSW Government's requirements for sustainability.

8.1.5 State Environmental Planning Policy 71 - Coastal Protection

The subject land is within the coastal zone as defined within the Policy which therefore triggers considerations under this Policy.

The site is separated by existing residential and commercial land including numerous roads and is located approximately 900m from the nearest high water mark. The proposed development will have no adverse impact on the coastal foreshore or its setting, including scenic quality and environmental amenity. The aims of the SEPP (Clause 2) are met and the matters for consideration (Clause 8) are satisfied.

8.1.6 State Environmental Planning Policy No. 65: Design Quality of Residential Flat Development (SEPP)

Building C and D is three storeys and therefore this SEPP must be addressed. The application is supported by an architectural design statement which demonstrates that the development satisfies the design quality principles set out in Part 2 of the SEPP.

The buildings do not compromise the aims and objectives of the SEPP in that they will not negatively impact on the current and future streetscape. The location of the three storey is toward the centre of the development site and in fact allow a break in the predominate two storey building typology of the site.

8.1.7 Illawarra Regional Environmental Plan No 1 (now deemed SEPP)

Clause 139.2 of the Plan notes that the consent authority must not consent to a DA to erect a building....where the building after erection or alteration will have a height of more than 11m and without the approval of the Director-General.

Council has the assumed concurrence from the Director pursuant to a direction from the Department of Planning in form of a letter dated 25 August 1994, titled Delegation made under the *Environmental Planning and Assessment Act 1979*.

Note: To avoid repetition within this report, this section provides an overall assessment of the collective height requirements contained within *State Environmental Planning Policy (Senior Living) 2004 (Senior Living SEPP)*, *Illawarra Regional Environmental Plan No. 1 (IREP)*, *Exhibited Draft Shellharbour Local Environmental Plan 2012 (Draft LEP 2012)*, *Shellharbour Local Environmental Plan (LEP 2000)* and *Medium Density Development Control Plan (MCDCP)* and *Shell Cove Development Control Plan (SCDCP)*.

The below table demonstrates where the building heights do not comply with the relevant Policy or Plan.

Policy	Height definition	Control	Actual Measurement
Senior Living SEPP	The distance measured vertically from any point on the ceiling of the topmost floor of the building to the ground level immediately below that point	8m	RACF - 9.5m* SCD A - 8.5m SCD B - 9.2m* SCD C - 10.9m* ▲ SCD D - 10.9m* ▲ SCD E - 6.6m
IREP	Per above	11m	RACF - 9.5m SCD A - 8.5m SCD B - 9.2m SCD C - 10.9m ▲ SCD D - 10.9m ▲ SCD E - 6.6m
Draft LEP 2012	Existing ground level to highest point of building	9m	RACF - 11.6m* SCD A - 9.1m* SCD B - 9.5m* SCD C - 11.4m* ▲ SCD D - 11.4m* ▲ SCD E - 7.4m
LEP 2000	Nil controls	-	
MDCP & SCDCP	Highest point of building to natural ground level or finished level (whichever is lower)	9m	RACF - 12m* SCD A - 10.9m* SCD B - 10.9m* SCD C - 13.3m* ▲ SCD D - 13.3m* ▲ SCD E - 10.8m

* denotes non-complying buildings based on the various Policy height definitions.

▲ denotes 3 storey building.

The Senior Living SEPP does not provide development standards; rather they are standards that cannot be used to refuse development application. As a result, the numerical development controls which are non-complying relate to Draft LEP 2012 and DCP. Whilst the provisions of the SEPP Senior Living prevail, it is important to consider the development in a local context as well.

The assessment concludes that the Draft LEP 2012 and DCP controls are unreasonable and unnecessary given the importance of the sites location and its role in acting as an interface between the future commercial precinct with building heights of 12m-36m and the residential neighbourhood. Furthermore, the definition of building height under the DCP includes the height of the basements which does not contribute to the bulk, scale or streetscape.

In this regard, the height controls are of secondary importance to the issue of whether the proposal is an acceptable under development of the land based on other salient planning considerations, such as compatibility with surrounding development, parking, access, architectural design and the provisions of the Senior Living SEPP.

The noncompliance is not more than 2.4m (under Draft LEP 2012) and relates to the third storey of buildings C and D. The third storeys are setback from the outer walls of the building and occupy approximately 80% of the building footprint. The buildings having the three storeys are located within the site (ie no direct frontage to the street) and do not contribute to any overshadowing on adjoining lands nor does it negatively impact on the streetscape.

The architectural design elements of the building do not present as one 'blank wall' structure and each building is viewed as individual elements which create an important interface component between the low density single and double storey houses and future commercial/retail precinct.

Parking provisions comply with both Council requirements as well as the standards contained within the SEPP.

Based on the above, it is deemed that the control of 9m is unreasonable and unnecessary and is able to be supported.

8.1.8 Shellharbour Local Environmental Plan 2000

Permissibility

The proposed development is defined as 'medium density housing' and is permissible with development consent in the applicable 2(f) Mixed Use Residential Zone.

Zone Objectives

The development achieves the objectives of the zone in that it will incorporate a mixture of household preferences (ie two or three bedroom senior living) as well as a type of housing need (ie Aged Care Facility) for the community.

Clause 78 Suspension Of Restrictions On Land

The 88B instrument for the subject site states *"the common boundary of the lot burdened and Lot 8250 between point 't' and 'v' must not be used as a means of vehicle access to or vehicular egress from that lot"*.

The proposal seeks to create an access point off Harbour Boulevarde resulting in some changes to the road profile. Approval has already been granted for the road however conditions will be imposed on the subject application requiring the changes to the road to be approved prior to the issue of the construction certificate for the stage of development proposing to establish the vehicle access point from Harbour Boulevarde. All relevant stakeholders have been notified of the proposal and no objection has been raised.

Council has the ability to vary requirements contained within the s88B instrument pursuant to this clause. The clause states *'for the purpose of enabling development to be carried out in accordance with this plan or in accordance with a consent granted under the Act, the operation of any covenant, agreement or like instrument imposing restrictions on the development shall not apply to the development'*, therefore the proposal to create an access off the future Harbour Boulevarde is able to be supported.

No other clause within the LEP is relevant.

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

8.2.1 Exhibited Draft Shellharbour Local Environmental Plan 2011

Permissibility

The proposed development is defined as 'seniors housing' and is permissible with development consent in the applicable R2 Low Density Residential zone.

In preparing the Draft LEP 2012 Council has gone with a 'like for like' approach to converting most of zones and land uses between the current and draft Instrument. For the subject site however and unlike the current zone, residential flat buildings are now defined in the land use table and are prohibited in the R2 zone. As a result, some of the provisions of the SEPP would need to be considered (ie Clause 40).

Warrigal Care spoke to Council staff in the early stages of the standard instrument LEP being developed with a view increasing density and height controls for the subject. Advice back to the applicant was that Council is not in a position, post exhibition, to make wholesale changes but recommended that a planning proposal be pursued subsequent to the gazettal of Draft LEP 2012.

The application has been lodged prior to the gazettal of the Draft Instrument and therefore *Local Environmental Plan 2000* is used to determine the provisions of the SEPP. In this regard, as noted within section 8.1.2 of this report (clause 40) residential flat buildings are not explicitly prohibited in the land use table of the 2(f) zone and therefore the provisions of clause 40(4) do not apply.

Zone Objectives

The development achieves the objectives of the zone in that it will provide housing needs to an ageing community. In addition, the commercial uses within the RACF will provide goods and services to the residents of the seniors housing which is advocated within the second objective.

Assessment on Relevant Clauses

Clause 2.8A Earthworks (Excavation & filling)

The land will be regraded and result in cutting and filling across the entire site. Of most note, excavation of up to 3.5m below the natural ground level will take place for the purpose of basement parking. The waste management plan states that all excavated material will be reused on site, however, all soils will have to be validated to ensure there is no risk to human health for reuse. Such requirements have been conditioned.

It is unlikely that the excavation of the basement parking will result in any adverse impact to the adjoining residential lands. The basement parking is located approximately 5m from the nearest residential dwelling while all other areas are separated by road.

Based on the above, the development satisfies this clause.

Clause 4.3 Height of Buildings

This matter has been discussed in section 8.1.7 of this report.

Clause 4.4 Floor Space Ratio

The below table demonstrates the floor space ratio relative to the different standards and controls.

Policy	Control	Actual Measurement
Senior Living SEPP - RACF	1:1	0.8:1
Senior Living SEPP - SCD	0.5:1	0.69:1 ▲
Draft LEP 2012	0.5:1	0.8:1* ▲
LEP2000	-	
Medium Density DCP	0.4:1	0.8:1* ▲
Shell Cove DCP	0.5:1	0.8:1* ▲

* denotes FSR total ▲ denotes non-complying

The overall development will result in a floor area of 0.8:1. When each part of the development types are calculated separately the floor space ratio of each is represented as 1:1 for the RACF and 0.69:1 for the SCD component. As a result, the SCD development does not comply with the Senior Living SEPP provisions while the combined floor space ratio does not comply with the controls contained within the Draft LEP 2012 and DCP.

As noted above, the Senior Living SEPP does not provide development standards; rather they are standards that cannot be used to refuse development application and whilst the provisions of the SEPP Senior Living prevail, it is important to consider the development in a local context.

The site is only 250m from the boat harbour where proposed densities range from 1:1 to 1.5:1. Importantly, the site acts as a transitional site between the higher densities of the boat harbour and the low density housing within the residential parts of the estate.

Adding to this, upon completion of the Harbour Boulevard, the boat harbour and its commercial and retail centre, the site will play an important role in the context of a gateway site for the release area. As a result, such a site lends itself to a density higher than that in a suburban area.

In determining the appropriateness of the non-compliance the Statement of Environmental Effects (SEE) draws on the Planning Principal relating to floor space area, specifically in relation to density and residential character emerged as part of *Salanitro-Chafei v Ashfield Council* (2005) NSWLEC 366. The SEE states:

While this decision principally related to low density suburban development in an area where no FSR control has been implemented, the planning principal does acknowledge that higher densities than the common 0.5:1 do not necessarily have to be inappropriate.

27. "The upper level of density that is compatible with the character of typical single-dwelling areas is around 0.5:1. Higher densities tend to produce urban rather than suburban character. This is not to say that a building with a higher FSR than 0.5:1 is necessarily inappropriate in a suburban area; only that once 0.5:1 is exceeded, it requires high levels of design skill to make a building fit into its surroundings"

To encapsulate the above the SEE discusses elements of the development which is integral to ensuring an appropriate interface between the urban character of the future Shell Cove Boat Harbour precinct to the south and suburban area already established to the west of the site. They include:

- a. *the proposal principally complies with the required setbacks for the building façade to all boundaries.*
- b. *the buildings do not present as one blank wall or as one 'box like' structure, they are instead viewed as individual, yet consistent and complementary elements.*
- c. *while each building will be separate, consistent scales, building elements and design features ensures a cohesive and complementary design across the whole site.*
- d. *the building offset assists in mitigating privacy impacts upon adjoining properties, while still allowing for passive surveillance opportunities.*
- e. *it creates an interface between the low density single and double storey houses to the west and the medium density developments proposed to the east.*
- f. *much of the site is two storeys in height which is in keeping with existing residential development to the west with three storey toward the centre of the site.*

As a result of the above and noting the outcomes of *Salanitro-Chafei v Ashfield Council (2005)* NSWLEC 366, strict compliance with the floor space ratio control of 0.5:1 is unreasonable and unnecessary and is able to be supported.

Clause 6.2 Stormwater Management

The proposal is consistent with the objectives of this clause. Most notably, the development maximises the use of water permeable surfaces on the site by achieving above the minimum standard for deep soil zones as advocated within subclause 6(2)(3)(a). Furthermore, underground water tanks will be provided as part of the development which acts as a alternative supply to water mains as required by subclause 6.2(3)(c).

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

8.3.1 Shell Cove Development Control Plan

Notwithstanding the prevailing Senior Living SEPP, a review of the controls concludes that the development does not comply with the following controls:

Section	Summary of Non-Compliant Controls	Comment
Section 3.3.1 Streetscape	<ul style="list-style-type: none"> - Pitched roofs between 22.5 and 30 are required for dwellings. - Roof design should be a collection of smaller roof forms, rather than a large, single, bulky roof. 	These controls are appropriate for single or two storey dwellings and not residential flat building. Irrespective, the development does not negatively impact on the objectives contained within this section.
Section 3.5.1 Building Height	Building heights must not exceed 9m and wall heights 7m.	Refer to section 8.1.7 of this report on a discussion on building height.
Section 3.6.1 Floor Space Ratio	0.5:1 of the total floor area.	Refer to section 8.2.1 of this report on a discussion on the floor space ratio.

Section	Summary of Non-Compliant Controls	Comment
Section 3.7.1 Open Space	The principal open space area must have an area of at least 20sqm and a minimum dimension of 4m.	The open space areas range between 9.9sqm but have an additional court yard or alternative balcony of 28sqm for the three bedroom apartments. The average area for the private open space is approximate between 13sqm and 16sqm.
Section 3.10 Car parking	Two vehicles per dwelling.	Refer to section 8.6.3 of this report on a discussion on parking requirements.

Notwithstanding the above, the development achieves the objectives within the *Shell Cove Development Control Plan* in that the development is compatible with the current and future built environment (as noted within objective f) while ensuring the development achieves the balance to develop residential lots while ensuring the acoustic, visual and solar amenity of neighbouring lands are protected (as noted within objective g).

8.3.2 Medium Density Development Control Plan

The *Medium Density Development Control Plan* relates only to the SCD's component as the RACF is not accommodation defined as medium density housing.

Notwithstanding the prevailing Senior Living SEPP, a review of the controls concludes that the development does not comply with the following controls:

Section	Summary of Non-Compliant controls	Comment
Section 7.1 Site Density	The maximum floor space ratio of any medium density development is 0.4:1	Refer to section 8.2.1 of this report on a discussion of floor space ratio.
Section 7.2 Open Space	Private open space dimension 4m X 5m. Screening shall be provided (minimum 1.5m high) where necessary.	A detailed discussion is provided within section 8.1.2 (Clause 34) of the report. Screening of the open space areas on the ground floor will be required and has been conditioned.
Section 7.1 Building Heights	Building heights must not exceed 9m and wall heights 7m	Refer to section 8.1.7 of this report on a discussion on building height. I
Section 7.11 Car Parking	<ul style="list-style-type: none"> - one space/dwelling (one bedroom dwellings) - 1.5 spaces/dwelling (two + bedroom dwellings) - Visitor car parking requirement: 0.5 spaces/dwelling (two or more bedroom dwellings) - 0.25 spaces/dwelling (one bedroom dwellings) 	Refer to section 8.6.3 of this report on a discussion on car parking.

8.3.3 Waste Minimisation and Management Development Control Plan (DCP)

The waste strategy during the construction phase will form part of the construction management plan which has been conditioned. With respect to operational waste, advice has been received from the proponent that Warrigal Care will enter into a commercial arrangement with a waste contractor which services the other sites owned by Warrigal Care.

Each floor within the SCD buildings will be provided with a central chute into garbage rooms/bins located within the basement below. The waste will then be collected by the staff of Warrigal Care who will trolley the containers to a central garbage room located under the RACF. The waste will then be collected by a waste removal company who is engaged by the operator under the commercial contractor arrangement.

Notwithstanding, conditions will be imposed that maximise recycling by requiring separation of recyclable and landfill waste streams for the SCD. Most notably, conditions will be imposed to ensure that the chutes are constructed to ensure there are separate disposal sections for recyclable as well as landfill waste streams.

Furthermore, conditions have been imposed to ensure compliance with Section 7.6 of the DCP which deals with how the waste areas are to be constructed and managed for each stage of the development.

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

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

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

The Regulations do not specify any matters that are relevant to this development.

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

The likely impacts of this development include:

8.6.1 *During Construction - Noise & Site Access*

It is proposed that all construction vehicles as well as vehicles from construction workers access the site via Addison Street and through other privately owned land. A copy of the access arrangement is provided at the end of the report (Attachment 4).

This route ensures the site is able to be accessed directly from Shellharbour Road/Addison Street without having to traverse through the residential estate.

To access the site directly from local roads and through the estate, construction vehicles would need to travel through built up residential areas (up to a distance of 2km) with a road network comprising of road carriageway widths of 6m and 8m.

Given the scale of development, the likely construction time frames and traffic generated by the construction phase, the option to access the subject site via land in separate ownership is a better outcome and facilitates in addressing the 43 objections received during the exhibition period of the development application.

A written undertaking from the landowner of the site proposing the access that has been created and is provided to the Panel members for their information (Attachment 5).

As the development progresses, direct access into the development site via the adjoining land will need to be managed during the different stages to ensure the continued access arrangement is maintained and that the local roads within the Shell Cove Estate are not used.

In this regard, a condition is recommended to ensure no Construction Certificate is issued for any stage unless documentary evidence is provided to the Principal Certifying Authority demonstrating the construction access arrangements via Addison Street.

8.6.2 Staging and Site Facilities for new residents

The construction management plan outlines the development to take place over four stages. The anticipated commencement date for stage 1 is 2014 and completion 2015. The applicant states that *'the best case for completing construction would be to do the remainder in one stage, which might take around two to three years'* however there are too many variables to confirm this.

The following strategy has been adopted for the development in the context of access, waste removal and amenity as the new residents begin moving into the estate:

- vehicle access will be gained via Cutter Parade. This driveway will be utilised until such time that Harbour Boulevard is dedicated and open as a public road,
- waste removal will be disposed of and sorted at the residential level via garbage chutes that drop into waste rooms located within the basement. As each stage of the SCD becoming occupied, maintenance staff will trolley the garbage to a central garbage collection point for the commercial contractor to collect,
- the footprint of each stage includes communal outdoor space with the first stage to include the main central park area, and
- clause 26 of the SEPP Senior Housing requires certain retail and commercial services as well as community services, recreation facilities, and that a general medical practitioner to made available to the residents. The applicant states that the operator will provide these services on site and within the RACF which is to be constructed in the final stage of the development.

to ensure residents have a level of access to such facilities and services in preceding stages, conditions have been imposed to require Warrigal Care to provide those services noted within clause 26 Location and Access to Facilities of the Senior Living SEPP to be made available from the first stage of the development.

8.6.3 Traffic and Parking

A total of 187 spaces have been provided within the development site area. The following is a summary of how the spaces have been allocated:

Component	Total	Break-up
RACF	48 spaces	Visitor spaces = 14 Staff spaces = 34
SCD	139 spaces	Resident spaces = 111 Visitor spaces = 28

An assessment on the different policy requirements for parking is provided below:

Policy	Requirement	Required	Comment
SEPP Senior Living	<u>Self Contained Dwellings</u> 0.5 car spaces for each bedroom where the development application is made by a person other than a social housing provider	There are 222 potential bedrooms (this includes the study rooms which are large enough to be counted as a bedroom). Therefore, 222 x .5 = 111 spaces required	Complies. All spaces have been provided within the basement.

Policy	Requirement	Required	Comment
	<u>Residential Aged Care Facility</u> One parking space for each 10 beds in the residential care facility, and One parking space for each two persons to be employed in connection with the development and on duty at any one time, and one parking space suitable for an ambulance.	128 beds = 13 spaces 68 staff = 34 spaces 47 spaces required	Complies. 10 visitor spaces have been provided at grade and the remaining 3 within the basement. For staff parking, 29 spaces have been provided within the basement parking while 5 spaces are provided at-grade within the service area driveway off Brigantine Drive.
Shellharbour City Council Car Parking Policy	- Homes for aged care = one space per five beds + one space per two employees	$128 / 5 = 25.6$ spaces required. $68 / 2 = 34$ spaces	The staff parking provisions comply however there is a shortfall of 12.6 spaces the RACF. Notwithstanding, the SEPP requirements have been met.
Medium Density Development Control Plan	- 1.5 spaces/dwelling (two+ bedroom dwellings) - Visitor car parking requirement: 0.5 spaces/dwelling (two or more bedroom dwellings)	$98 \times 1.5 = 147$ spaces $98 \times .5 = 49$ spaces	Does not comply. The development provides 111 spaces for the residents of the SCD's and 28 visitor spaces. This results in a shortfall of 36 spaces for resident parking and 21 spaces for visitor parking. Visitor parking spaces have been provided within the development at a rate of 2 spaces per 7 dwellings. 9 spaces have been provided at-grade while 19 spaces are provided within the basement parking area. Whilst the provisions of the SEPP prevail, the controls within the DCP lend themselves to developments which assume greater occupancy rates and not for senior housing.

The traffic report was produced by Cardno. The modeling used to determine the impact of traffic relies on the Harbour Boulevard being operational. The report states *'the development is expected to generate 80 vph which will ultimately primarily arrive via Harbour Boulevard when it is completed, which equates to an additional 5% of the total traffic using this link, and an additional 20% of traffic using Brigantine Drive'*.

In summary, the peak hour traffic generation is modeled based on staff arrivals and departures for the RACF and the traffic generation data issued by the Road and Martine Services for the SCD. The report represents the above as 60 vehicles per hour for the RACF and between 10-20 vehicles per hour for the SCD.

The report concludes that *'the road network is expected to operate with good performance (LoS A) at the time of development completion' and 'the road network is expected to be able to accommodate the development traffic without any significant impact'*.

As noted above, the modeling used to determine the impact on traffic relies on the Harbour Boulevard being operational. However the development must provide a temporary access arrangement via Cutter Parade until such time that Harbour Boulevard is constructed and dedicated as a public road. As a result, this will require all vehicles destined for the senior housing development to transverse through the residential area of Shell Cove until such time that the road is built.

The report does not consider traffic impacts relating to this temporary access however given that Harbour Boulevard is not constructed as yet, it is important to ensure the development does not adversely impact on the existing local road network.

As a result conditions have been imposed to ensure Harbour Boulevard is operational prior to the Construction Certificate being issued for the RACF which is the main traffic generating development as noted above.

8.6.4 Drainage and Hydrology

The stormwater plan produced by Jones Nicholson Pty Ltd generally complies with Council's *Stormwater Policy*. The basement car parking comprises of a pump out system in the remote event of an electrical outage or fault causing the pumps not to start. In this regard, conditions are recommended to require a self-starting diesel-powered generator or diesel-powered pump be incorporated in the design to provide another level of security if the occupants or management are away for an extended period when a heavy storm and power/outage occur simultaneously.

8.6.5 Flooding

A Flood Study Report was prepared by Jones Nicholson, dated 21st March 2012. The Statement of Environmental Effects states that the following was concluded from the study:

- a. *The results of the HECRAS modelling undertaken as a part of this report indicates that the proposed levee bank construction along Cutter Parade frontage, Lot 8201 in DP 11553225, will remain flood free up to the Probable Maximum Flood (PMF) event along the western boundary of the development site.*
- b. *The levee bank along the western boundary of the development site must be constructed to a level of 9.25m AHD at the northern most corner of the development site and be graded down to 8.9m AHD at the southern end as per the design by Jones Nicholson drawing no. 101158/C01-C06.*
- c. *Previous flood reports undertaken by Worley Parsons (dated 20/07/09) and Cardno (dated 29/02/2012) indicate that under the proposed levee bank raising along the northern boundary, Lot 8201 in DP 11553225, will remain flood free upon to the PMF event along the northern boundary.*
- d. *The levee bank along the northern boundary of the development site be constructed to a level of 10.65m AHD at the western most corner of the development site and be graded down to 7.75m AHD at the eastern and as per the design by Jones Nicholson, Drawing No. 101158/C01-C06.*
- e. *Flood modelling studies and assessment has indicated that through the use of levee banks, the entirety of the proposed development site, Lot 8201 in DP 1553225, will be free from flood inundation up to and including the PMF even with flows being diverted and conveyed within the surrounding road reserves.*

The levee banks described within point (b) will be located within the property boundary of the subject allotment and along the frontage of Cutter Parade and are a maximum height of 500mm. Conditions are recommended to ensure the plans are amended prior to the release of the Construction Certificate to ensure that the levee does not impact on any structures, vehicle parking spaces, public infrastructure or site landscaping.

The levee bank described within point (d) will not exceed 1m in height and is located on the adjoining land being Lot 802, DP 1149748 Addison Street, Shellharbour. The levee was formalised by an easement created under Development Consent No. 251/2009. The easement burdens Lot 802 and the 88b Instrument states that the owner must not *'interfere with, damage or alter or permit the interference with, damage to or alteration of the existing ground surface and any constructed bund or channel et al'*.

The levee has deteriorated and altered since its construction. As a result conditions have been imposed to ensure the levee bank is reconstructed to its original state and that the developer is required to ensure this work is undertaken prior to an Occupation Certificate being issued for Stage 1.

8.6.6 Social Impacts

A Social Impact Assessment (SIA) report has been prepared to accompany the development application by TCG Planning, dated 9 March 2012. The report states that:

Overall, the assessment revealed that the social impacts of the proposed development are overwhelmingly positive, and the likely negative impacts indicated can be managed and mitigated through implementing the recommendations of the report.

In addition, the consultant's assessment recommends three actions for the development to positively contribute to the social fabric. They include:

- a. a transport service (ie shuttle bus) to commercial and open space precincts,
- b. Warrigal Care to work closely with all providers of health services to ensure the demands of the aging population within the estate is met, and
- c. include the allocation of a percentage of SCD and RACF beds within the development for older people from culturally diverse backgrounds, including indigenous elders.

Correspondence received from the proponent confirms that the above will be incorporated within the Plan of Management for the site. These recommendations are consistent with satisfying the requirements of clause 26 of the SEPP Senior Housing and form part of the development consent conditions.

8.6.7 Aboriginal Archaeology

The subject site is located within the consent and permit issued by the then NSW National Parks and Wildlife Services on 29 September 2006. The reference map delineates the study area and does not show the site to be subject of aboriginal archaeology.

8.6.8 Environmental Sustainability Design

Vim Sustainability was engaged by the proponent to produce an Environmental Sustainability Design Statement for the proposal. The statement states that *'One of the key concepts Warrigal Care are considering is the seeking of a Five Star Green Star Design as Built rating for the RACF and a five star Green star Design and as built rating for the SCD'*.

Key initiatives built within the development which may be incorporated into the design of the development include:

- a. automated natural ventilation intelligent control system
- b. natural ventilation system controlling lighting, shades, fans and air conditioning systems
- c. automated night purging system designed to improve the building comfort levels and indoor environment quality by flushing the building at night time using the cooler outdoor air
- d. rainwater capture from the roof stored under the facility with the intent to flush toilets and be reused and where possible to provide hydronic environment conditioning (subject to site constraints)
- e. the use of photovoltaic roof mounted panels to provide electricity generation
- f. the use of roof mounted solar heating panels to provide hot water
- g. adoption of the internationally recognised Adaptive Comfort Standard (ASHRAE 55-2004) resulting in a larger range of internal comfort temperatures to ensure energy and resource usage is minimised while comfort levels are maintained, and
- h. low water usage fixtures minimum WELS Level 3.

8.6.9 Flora and Fauna Report

The Arborist report and Flora and Fauna report both conclude that removal of vegetation on this site is acceptable.

As the vegetation was originally planted as part of the old golf course, and has not been actively managed since the course was abandoned, it has become highly degraded, whilst local bird species are likely to forage and rest in this stand of vegetation, they are unlikely to nest or roost permanently.

Recommendations from the report include the following and have been incorporated within the development consent conditions:

- a. that planted trees be retained in the landscaping of the site where possible (other than *Pinus radiata*).
- b. the two species of noxious weeds on the site should be controlled as part of the development and landscaping of the site.
- c. future landscaping on site should utilise native species where possible.

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

The matters of flooding, drainage and land contamination has been discussed above and have concluded that subject to conditions, the site is suitable for the development. Furthermore, the locality of the site further contributes to its suitability for the development as it plays an important role in the context of urban design for the Shell Cove precinct and interface with the surrounding residential neighborhood.

8.8 (1)(d) Any submissions

A total of 43 submissions were received and of these, 42 submissions raised concerns of the construction access route. The issues are summarised and discussed below.

8.8.1 Construction Access Route

At the time the application was publicly exhibited, the construction access route was to traverse the residential neighborhood of Shell Cove. The proponent was asked to explore alternative access and the revised strategy is discussed in section 8.8.1.

8.8.2 Impact On Parking Bay At Cutter Parade

A short stay parking bay is proposed along the frontage of Cutter Parade which is proposed to be used for postal deliveries and removal trucks that need to access the SCD. To reduce any noise and safety concerns, conditions have been imposed to ensure:

- a. the space is used only by vehicles which are not longer than 12.5m and that any larger vehicles are to use the Harbour Boulevard access once it has been established, and
- b. restrict the hours that vehicles are able to utilize the space.

8.8.3 Provision of Additional Footpaths To Shellharbour Village

Submissions were received which state that the development contributes to the need for formalised footpath infrastructure into the Shellharbour Village area (ie Addison Street). A review of the *Shell Cove Master Plan* as well as the road profile for Harbour Boulevard indicates that connections into the Village will be achieved in the design layout upon completion of Harbour Boulevard.

8.8.4 Traffic Impact Post Construction

Traffic and parking generated as a result of the operation of the development has been discussed in section 8.6.3. A large portion of submissions refer to the Traffic and Parking Assessment report and object to the development due to the proposed traffic modeling numbers quoted 3,800 vehicles per hour traveling west along Brigantine Drive.

The proponent has confirmed that these numbers refer to traffic modeling for the entire road network operation (ie all vehicles using Brigantine Drive) and that *'the (senior living) development is expected to generate 80 vph which will ultimately primarily arrive via Harbour Boulevard when it is complete, which equates to an addition 5% of the total traffic using this link, and an additional 20% of traffic using Brigantine Drive'*.

8.9 (1)(e) The public interest

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

- a. the development provides a housing need and type that is required within the community.
- b. the development will act as an important landmark for the entry into the evolving Shell Cove urban release area.
- c. the development will act as an interface with the adjoining residential lands which is in the interest of the residents who live within the stock of single detached dwellings.

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.

9. REFERRALS

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

- a. Strategic Planner
- b. Tree Management Officer
- c. Landscape Technical Officer
- d. Section 94 Accountant
- e. Team Leader - Building
- f. Traffic Engineer
- g. Development & Subdivision Engineer
- h. Environment Officer
- i. Community Safety Officer
- j. Community Planner

10. CONCLUSION

Council has received a development application, made pursuant *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

During the exhibition stage, 43 submissions were received of which 42 mostly dealt with the issue of construction vehicle access. At the time of exhibition the construction access proposal was to meander through the residential neighbourhood, however, since then the proponent has developed a strategy which redirects the construction traffic to Addison Street via undeveloped land in other private ownership.

The floor space ratio varies between 0.8:1 for the RACF and 0.69:1 for the SCD. The Senior Living SEPP provides controls (which cannot be used to refuse an application) of 1:1 and 0.5:1 respectively. The local controls (ie LEP and DCP) range from 0.4:1 to 0.5:1 respectively.

With respect to the building heights, the numerical development controls which are non-complying relate to the Draft LEP 2012 and DCP which limit heights to 9m. The highest point of the building is 11.6m.

The assessment concludes that the site lends itself to a higher density and building height given its proximity to the future commercial/retail precinct which is proposed to have floor space ratios of up to 1.5:1 and heights of up to 36m. Furthermore, the site plays an important role as a gateway site into the Shell Cove release area. Importantly however, the bulk and scale of the development will not negatively impact on the surrounding residential neighbourhood. The buildings are setback to result in no over shadowing to the adjoining lands and they are consistent with the two storey design outcome of the residential precinct.

The proposed works will not have any detrimental environmental impacts, subject to the recommended draft development consent conditions, and is generally compliant with the relevant SEPP's, LEP and DCP that apply to it.

Consequently it is recommended that the Panel approve the development application subject to the draft conditions of consent provided with this report.

11. RECOMMENDATION

It is recommended that the Panel approve Development Application No. 104/2012 for the construction of Housing for Seniors and People with a Disability at Lot 8021, DP 1153225, Cutter Parade, Shell Cove subject to the recommended draft development consent conditions shown below.

Conditions

PART A - ADMINISTRATIVE CONDITIONS

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

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

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

A2 Prescribed Conditions

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

A3 Development in Accordance with Plans

The development must also comply with the conditions of approval imposed hereunder.

Where there is an inconsistency between the approved plans/documentation and conditions of consent, the conditions of consent take precedence to the extent of the inconsistency.

Name of Plan	Prepared By	Drawing No./Revision	Drawing Date
Proposed Site Plan	Hodges Shorten Architects	2433.DA102.B	30.08.12
Proposed Lower Ground Site Plan	Hodges Shorten Architects	2433.DA103.A	17.02.12
Proposed Upper Ground Site Plan	Hodges Shorten Architects	2433.DA104.A	17.02.12
Proposed First Floor Site Plan	Hodges Shorten Architects	2433.DA105.A	17.02.12
Proposed Second Floor Site Plan	Hodges Shorten Architects	2433.DA106.A	17.02.12
Proposed Site Roof Plan	Hodges Shorten Architects	2433.DA107.A	17.02.12
Site Elevations & Sections	Hodges Shorten Architects	2433.DA108.A	17.02.12
Shadow Diagrams	Hodges Shorten Architects	2433.DA109.A	17.02.12
		2433.DA110.A	17.02.12
		2433.DA111.A	17.02.12
Cut & Fill Sections	Hodges Shorten Architects	2433.DA112.A	30.08.12
		2433.DA113.A	30.08.12

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Development Application No. 104/2012
 Lot 8201, DP 1153225, Cutter Parade, Shell Cove

		101158.C10.P2	17.02.12
Arborist report	Moore Trees Aboricultural Services	November 2011	08.11.11
Aboriginal Archaeology Permit	National parks & wildlife service NSW	Permit #2534	29.08.12
SEE	TCG Planning	Final	27.3.12
Acoustic Report	Renzo Tonin & Associates	Rev 2	24.02.12
Geotech Report	Landteam		12.11.08
Traffic Report	Cardno	Version 4	03.09.12
Social Impact Statement	TCG Planning	Final V2	9.3.12
Soil and water management plan	Jones Nicholson Consulting Engineers	CRPT-20101158.01	16.02.12
Flood Study Report	Jones Nicholson Consulting Engineers	CRPT-20101158	21.03.12

- * 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.

PART B - PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

B1 Amendments to Approved Plans

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

- a. the landscape plan must be updated to include the following:
 - i. remove the plant *Pennisetum alopecuroides* (this plant is listed as an environmental weed within the Shellharbour Local Government Area),
 - ii. additional climber trees are to be included within the use of other climbing plants, including a *Wisteria*, *Passiflora*, *Clematis* or *Parthenocissus* species, and
 - iii. the following plant species must be incorporated in the overall landscape works: *Livistonia australis* and *Brachychiton acerifolius*
- b. the plans must be updated to require all Principal Private Open Space areas on the ground floor to be provided with a glazed tinted balustrade/fence with a minimum height of 1.5m. The balustrade must include a lockable gate to allow access to the remaining court yard areas.

The balustrade/fence on the remaining upper floors must be provided with the same tinting to ensure privacy is maintained to the future occupants.

- c. the plans must illustrate how the waste chutes within the buildings of the self-contained dwellings will be able to separate recyclable and landfill waste.

B2 Site Access from Harbour Bouelvarde

The Construction Certificate for the residential aged care facility must not be issued until such time that

- a. the portion of Harbour Bouelvarde fronting the site along the entire length and up to Shellharbour Road is complete is gazetted as a public road, or
- b. the portion of Harbour Bouelvarde fronting the site along the entire length and connecting up to Cove Bouelvarde is complete and gazetted as a public road.

The road profile must incorporate the requirements of condition B3 and B4.

B3 Works along Harbour Boulevard

The Construction Certificate proposing the access to and from the future Harbour Boulevard (Stage 1), must not be issued unless documentary evidence in the form of engineering plans is provided to the Principal Certifying Authority demonstrating that the deceleration lane has been incorporated within the final design for Harbour Boulevard.

The plan must be designed in accordance to Austroads Guide to Road Design.

B4 Shared Use Path Signage and Line Marking - Harbour Boulevard Access

The developer must submit a detailed shared use path signage and line marking plan for the development for Council's approval through Council's Traffic Committee and is to be submitted in conjunction with the Construction Certificate Application. The plan must be generally in line with Council's Shared Use Path Strategy, Austroads guidelines and relevant Australian Standards. The plan must identify all relevant signage and line marking required for the shared use path on eastern and southern frontages of lot 8201 in particular the access to Harbour Boulevard. The works must be completed prior to the issue of Occupation Certificate of Stage 4 of the development or within 28 days of notification from Council that Harbour Boulevard construction is complete and is gazetted as a public road.

B5 Temporary Access Arrangement Cutter Parade

The developer must submit details of the temporary access driveway via Cutter Parade for the self-contained dwellings development. The temporary access must only be utilised during Stages 1, 2 & 3 of the development or within 28 days of notification from Council that Harbour Boulevard construction is complete and is gazetted as a public road. After this time, the access must only be used for emergency service vehicles. In this regard, a removable bollard and appropriate signage must be installed at the entry point.

The driveway access must be constructed as an all weathered sealed pavement and must not be of permeable pavement.

B6 Utilities - Electricity Supply

Consent for this development is conditional upon satisfactory arrangements being made with from the relevant electricity provider for the provision of electricity supply to the development. Written confirmation from the relevant electricity provider must be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate for the development.

Note: The electricity provider may require a capital contribution to be paid towards making electricity supply available to the development.

Any substation installed must be screened from all street frontages and public places by the use of screen enclosures and landscaping. Any such enclosure and landscaping must integrate with the colours, materials and vegetation used within the development.

B7 Section 94 Contributions - Stage 1

A contribution of \$251,758.34 must be paid to Council towards the provision of community facilities and services prior to the issue of the Construction Certificate for stage 1. This amount has been calculated in accordance with Council's *Section 94 Contributions Plan 2005* (Amendment 1) dated 14 September 2006.

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

Note: The contribution amounts quoted are the base rate indexed to the date the consent is issued. Where the Construction Certificate is issued at a time later than the Development Consent, the above contribution amount may be adjusted in accordance with the indexing methods detailed in the Plan. Amended rates are available from Council.

B8 Section 94 Contributions - Stage 2

A contribution of \$243,890.89 must be paid to Council towards the provision of community facilities and services prior to the issue of the Construction Certificate for stage 2. This amount has been calculated in accordance with Council's *Section 94 Contributions Plan 2005* (Amendment 1) dated 14 September 2006.

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

Note: The contribution amounts quoted are the base rate indexed to the date the consent is issued. Where the Construction Certificate is issued at a time later than the Development Consent, the above contribution amount may be adjusted in accordance with the indexing methods detailed in the Plan. Amended rates are available from Council.

B9 Section 94 Contributions - Stage 3

A contribution of \$275,360.68 must be paid to Council towards the provision of community facilities and services prior to the issue of the Construction Certificate for stage 3. This amount has been calculated in accordance with Council's *Section 94 Contributions Plan 2005* (Amendment 1) dated 14 September 2006.

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

Note: The contribution amounts quoted are the base rate indexed to the date the consent is issued. Where the Construction Certificate is issued at a time later than the Development Consent, the above contribution amount may be adjusted in accordance with the indexing methods detailed in the Plan. Amended rates are available from Council.

B10 Long Service Levy

The Long Service Levy must be paid prior to the issue of the Construction Certificate.

Note: This is a levy imposed by the NSW Government and administered by the Long Service Payments Corporation for the purpose of long service payments to building and construction workers.

B11 Construction and Site Management Plan

Prior to the issue of the Construction Certificate, the applicant must submit to and obtain approval for a Construction and Site Management Plan from the Certifying Authority that 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 location of the storage of building materials, stockpiles, hording, equipment, machinery, site office etc, within the development site area,
- c. the method and location points of loading and unloading excavation machines, building materials and formwork within the development site area,
- d. the proposed areas within the site to be used for the storage of excavated material, construction materials and waste containers during the construction period, and
- e. the proposed method of support to any excavation adjacent to adjoining buildings or the road reserve. The proposed method of support is to be certified by an accredited certifier in Civil Engineering.

Where the development is completed in stages, the plan must be submitted showing details of boundaries for each stage and their relationship to adjoining buildings, together with details as to site works, landscaping and open space works, road and drainage works, environmental controls and measures associated with the different stages and any other requirements noted within conditions B12 and B13

B12 Construction Traffic Management Plans and Procedures

Traffic management procedures and systems must be introduced during the construction phase of the development to ensure safety standards are maintained and to minimise any impact on adjoining pedestrian and traffic systems. Such procedures and systems must be in accordance with Australian Standard 1742.

A Plan must be produced to be incorporated within the Construction and Site Management Plan. The plan must set out the following requirements for each stage of the development:

- a. the access route for all vehicles associated to the construction works, including construction vehicles and vehicles of the construction staff as required by condition D2.
- b. the parking area for all vehicles associated to the construction works, including construction vehicles and vehicles of the construction staff as required by condition D2.

It is the developer's responsibility to provide an educative session for construction workers and supervisors to ensure that the Traffic Management Procedures are maintained at all times.

B13 Soil and Water Management Plan

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 and Statement which clearly identifies 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 and also rehabilitation techniques that are necessary to deal with such activities.

The plan shall address the requirements of Landcom's publication 'Managing Urban Stormwater - Soils and Construction (2004)' also known as the 'Blue Book', and must be incorporated within any construction and site management plan.

In developing the Plan, the following must be achieved and identified for each stage of the development:

- a. all possible sediment controls are installed prior to the commencement of work
- b. to minimize the area of soils exposed at any one time
- c. to conserve topsoil for reuse on site
- d. to identify and protect proposed stockpile locations
- e. to 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-erodable 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. specific 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, and
- i. design scour protection for the 100 year ARI event at all inlet and outlet structures

The plan must incorporate the temporary construction access via Addison Street and the measures utilised to reduce the impact on the surrounding road network.

B14 Geotechnical Report

A final geotechnical report, prepared by a suitably qualified and experienced geotechnical engineer must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

The report must cover, but not be limited to the following:

- a. extent and stability of proposed embankments including those acting as retarding basins
- b. recommended Geotechnical testing requirements
- c. required level of geotechnical supervision for each part of the works as defined under AS 3798 - Guidelines on Earthworks for Commercial and Residential Developments

- d. the level of risk to existing adjacent dwellings as a result of a construction contractor using vibratory rollers anywhere within the site the subject of these works. In the event that vibratory rollers could affect adjacent dwellings, high risk areas shall be identified on a plan and the engineering plans shall be amended to indicate that no vibratory rollers shall be used within that zone
- e. the impact of the installation of services on overall site stability and recommendations on short term drainage methods, shoring requirements and other remedial measures that may be appropriate during installation
- f. the preferred treatment of any unstable areas within privately owned allotments
- g. requirement for subsurface drainage lines, and
- h. overall suitability of the engineering plans for the proposed development.

B15 Drainage Design

A detailed drainage design of the site must be submitted and approved prior to the release of the Construction Certificate. The plan must be generally in accordance with the *Stormwater Plan* drawing ref C01P2 - C06PS, C10P2 prepared by *Jones Nicholson* and must be to the satisfaction of the Certifying Authority. The plan must 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. In addition to the duty/standby electric sump pumps shown in the basement area, a self-starting alternative powered generator or alternative powered pump shall be incorporated in the design. This is to ensure that in the event of an electrical outage/malfunction during a prolonged storm event (with the residence vacant), an automated, alternative powered pump is activated.

The design must include the rainwater tanks, 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.

Pits must be located at all junctions, changes of grade or direction in addition to this installed at a maximum spacing of 30m along a length of pipe. All drainage pits should be self flushing and at the same level as the invert of the outlet pipe. This is to ensure rainwater does not pond within the stormwater system.

The detailed stormwater design must cater for the safe passage of overland flow for the 1% AEP storm event.

B16 Drainage design – Critical Flood Event

Stormwater drainage and inter-allotment drainage must, as a minimum, be designed for the critical flood event with an average recurrence interval of 1 in 20 years with satisfactory provision for safe passage of runoff generated by the critical flood event with an average recurrence interval of 1 in 100 years. The conveyance and discharge of runoff generated by the critical flood event with an average recurrence interval of 1 in 100 years must be over public land.

B17 Installation of Stormwater Pipes

All stormwater pipes within road reserves and within drainage easements intended to be dedicated to Council must be installed generally to the HS3 standard in accordance with the current edition of AS 3725 and the Concrete Pipe Association of Australia publication 'Concrete Pipe Selection and Installation'.

B18 Engineers Report – Flood Affection

Engineer's report is required to certify that the development will not increase flood affection elsewhere. Details must be submitted with the Construction Certificate application.

B19 Flood Mitigation Design

Levee banks in locations described below must be established prior to any Occupation Certificate being issued. The levee banks must be structurally designed to ensure the structures can withstand the forces of floodwaters, debris and buoyancy of upstream floodwaters identified in the Flood Study Report, dated 21 March 2012, prepared by Jones Nicholson. Details of levee banks and an engineers report certifying that the structures can withstand the forces of floodwater is required to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

The report must provide recommendations how the levee banks are to be maintained to ensure their effectiveness in perpetuity. Such recommendations must be maintained by the operator of the Senior Housing Development.

- a. A levee bank is to be constructed along the western boundary of the development site to a level of 9.25m AHD at the northern most corner of the development site and be graded down to 8.90m AHD at the southern end.
- b. A second levee bank along the northern boundary on Lot 802, DP 1149748 Addison Street, Shell Cove is to be modified to a level of 10.65m AHD at the most western corner of the development site and be graded down to 7.75m AHD at the eastern end of the lot. The location of the levee must be within the easement corridor referred to as 'C' and 'D' in deposited plan no. 1149748.

Owner's consent is required to enter upon the land described in (b). Documentary evidence from the land owner must be provided to the Certifying Authority demonstrating that consent has been granted to construct/modify the levee.

Documentary evidence must be provided to the Certifying Authority demonstrating that the above works have been undertaken prior to an Occupation Certificate being issued for stage 1.

B20 Flood Evacuation & Disaster Management Plan

A Flood Evacuation and Disaster Management Plan must be prepared in accordance with the SES flood plan and the Shellharbour DISPLAN. Details must be submitted with the Construction Certificate Application.

B21 Protection of Public Places

- a. Work that are likely to or will cause pedestrian or vehicular traffic in public places (eg a footpath) to be obstructed, diverted, rendered inconvenient and enclosed, or similar, a Class B hoarding must be erected between the work site and/or over the public place during each stage of the development.

If a hoarding is not necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place. Any hoarding, fence or awning must be removed when the work has been completed.

Any proposed hoarding, fence or awning proposed within the road reserve will require a specific approval under section 138 of the *Roads Act 1993*. An application fee will apply in accordance with Council's *Fees and Charges*.

- b. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place. Such security lighting must ensure that any glare is directed away from the surrounding dwellings.

B22 Public Liability

Before the issue of the Construction Certificate, the owner or contractor must provide evidence to the 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 must note Council as an interested party.

B23 Section 138 Roads Act 1993

For works proposed within the road reserve, the requirements of 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.

B24 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 must be submitted to the Certifying Authority for approval prior to issue of the Construction Certificate.

B25 Verification of Driveway Grades with Council's Standards

To verify that vehicular access will comply with Council's requirements, a scaled long section of the proposed driveways, from kerb and gutter at the point of access to the proposed basement parking floor level must be submitted with the Construction Certificate. The plan shall include:

- a. existing natural surface levels
- b. proposed grades and finished surface levels of the driveway, and
- c. preliminary details of the method of treatment of any fill/retaining wall which may be required in conjunction with the proposed driveway.

Note: No part of the driveway must have grades exceeding Council's standards. As such, the long section shall be taken along the critical path, ie the side of the driveway that will have the steepest grades.

B26 Car Parking Spaces - Number

Onsite parking spaces must be provided, as follows:

Component	Total	Break-up
Residential Aged Care Facility	48 spaces	Visitor spaces = 14 Staff spaces = 34
Self-contained Dwellings	139 spaces	Resident spaces = 111 Visitor spaces = 28

The visitor car parking spaces must be provided as open car parking spaces and must be suitably signed and marked to designate their use.

Where there development is completed in stages, the provision of parking for the number of units within that stage must be constructed and provided to the incoming residents in accordance with the requirements of clause 50(h)(i) of the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

B27 Car Parking Spaces - Dimensions

All car parking spaces must have minimum dimensions of 2.6m x 5.5m adjacent to a 7.0m wide access aisle. A lesser aisle width is permitted provided that for every 0.4m reduction in the aisle width below 7m there is a corresponding increase in the car space width of 0.1m. The car spaces for people with a disability must be designed in accordance with AS 2890.6 (or subsequent amendments).

B28 Fire Resistance

The *Type of Construction* proposed for the building must comply with Section C of the *Building Code of Australia*. Details of the proposed *Type of Construction* for the building must be submitted with the Construction Certificate for assessment by the Certifying Authority.

B29 Fire Egress

The requirements of Section D of the *Building Code of Australia* concerning exit requirements in the event of a fire must be complied with. Details of how the building will comply with Part D must be submitted with the Construction Certificate for assessment.

B30 Waste & Recycling Interim Storage Facilities

Sufficient space within the kitchen (or other suitable location) of each self-contained dwelling, for the interim storage of waste and recyclables must be provided. Details are to be shown on the Construction Certificate plans.

B31 Waste Management Plan - Construction

A Waste Management Plan for the management of all waste streams generated by the construction of the development must be prepared and submitted with the Construction Certificate for approval by the Accredited Certifier. The Waste Management Plan – Construction must demonstrate a minimum 70% recycling rate and the reuse of clean fill onsite as noted within the approved Waste Management Plan.

The management of waste must comply with the approved Waste Management Plan.

A copy of the Waste Management Plan – Construction shall be submitted to Council prior to the commencement of any works.

B32 SEPP (Seniors Living) Requirements – Accessibility & Useability

The development must satisfy the development standards for residential care facilities in accordance with Part 4 Division 2 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

In this regards, an Access Report prepared by suitably qualified and experienced person in the application of the Premises Standards must be submitted to and approved by the Principal Certifying Authority prior to the release of the Construction Certificate. The report must include recommendations how the entire development is to comply with Part D3 of the *Building Code of Australia and AS 1428. Compliance with such works must be incorporated within the Construction Certificate plans.*

B33 SEPP (Seniors Living) Requirements – Location & Access to Facilities

The development must comply with the requirements of clause 26 *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*. Prior to the issue of the Construction Certificate, details must be provided to the Certifying Authority demonstrating how this will be complied with.

B34 Energy Efficiency Report

An Energy Efficiency Report prepared by a suitably qualified and experienced person/architect in Energy Efficiency must be submitted to the Principal Certifying Authority prior to issue of a Construction Certificate. The Energy Efficiency Report must verify that the building has been designed in accordance with Section J (Energy Efficiency) of the *Building Code of Australia*. Prior to the issue of the Construction Certificate, details must be provided to the Certifying Authority demonstrating how this will be complied with.

B35 Noise Transmission

The wall separating each sole-occupancy unit must be constructed of material that achieves a weighted sound reduction index in accordance with Part F5 of the *Building Code of Australia*.

The floor separating each sole-occupancy unit must be constructed of material that achieves a weighted sound reduction index in accordance with Part F5 of the *Building Code of Australia*.

Prior to the issue of the Construction Certificate, details must be provided to the Certifying Authority demonstrating how this will be complied with.

B36 Food Premises Fit-out

The shop fit-out must comply with the *Building Code of Australia* and AS 4674 - 2004 (Construction and Fit-out of Food Premises). Detailed plans verifying compliance must be provided to the Principal Certifying Authority prior to issue of a Construction Certificate.

B37 External Lighting

Prior to the issue of a Construction Certificate, a lighting strategy is to be developed and submitted to the Principal Certifying Authority. The strategy must be developed to enhance a safe environment and encourage passive surveillance. In this regard, the following objectives must be addressed within the strategy:

- a. lighting of all entrances/exits of buildings, car parks, access routes and pathways to encourage safety and passive surveillance
- b. lighting type and distribution to be provided throughout the site to eliminate any dark shadows and concealment areas particularly in the car park and stairwells, and
- c. access control to and from the buildings as well as individual self contained dwellings shall be modified to require the private open space area for Apartment Type A2, A3 and A4 shall be delineated with a glazed balustrade similar to that provided to the units on the first and second floor. The barrier shall include a lockable gate to allow access to the remaining courtyard area.

All external and internal lighting for internal roads, parking and service areas shall be provided in accordance with the Australian Standard 1158. At no time shall the lighting exceed the limits of the Australian Standard 4282-1997 Control of the Obtrusive effects of outdoor lighting.

PART C - PRIOR TO COMMENCEMENT OF WORKS

C1 Erosion & Runoff Controls

Before any work starts, erosion and runoff controls must be installed to prevent soil erosion, water pollution or the discharge of loose sediment on surrounding land, stormwater systems or watercourses and in accordance with the approved Soil and Water Management Plan.

These controls must be in accordance with the Sediment Control Plan and may include the following (where applicable):

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

These measures must be in place prior to commencement of any excavation or construction works for each stage of the development.

C2 Dilapidation Report

It is the applicant's responsibility to notify Council of any existing damage to public areas in the vicinity of the development site through the submission of a Dilapidation Report supported with suitable photographic records. This information must be submitted to Council and the Certifying Authority prior to the commencement of work for each stage of the development.

C3 Structural Details

The following structural details must be provided to the Certifying Authority prior to commencing work for each stage of the development:

- a. structural engineers 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
- d. manufacturer's specifications for any patented construction systems.

Note: Council records indicate that this site has a 'H' soil classification. The engineer's design for the footings or slab must make specific reference to the soil classification.

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

C4 Retaining Walls

Where a retaining wall exceeds 600mm in height, the wall must be designed by a practising structural engineer and a Construction Certificate must be obtained prior to the commencement of work on the retaining wall.

C5 Temporary Occupation of Road Reserve

Where it is proposed to:

- a. pump concrete from within a public road reserve
- b. stand a mobile crane within the public road reserve
- c. use part of Council's road/footpath area
- d. pump stormwater from the site to Council's stormwater drains, or
- e. store waste containers, skip bins and/or building materials on part of Council's footway or roadway,

written applications together with any necessary fee, must be made to Council for the temporary occupation of the road reserve.

Approval must be obtained prior to any works commencing on site.

PART D - DURING CONSTRUCTION WORKS

D1 Hours of Work During Construction 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

Work must not be carried out on Sundays or public holidays.

D2 Vehicle Access and Parking during Construction Stages

Construction access to the site must be via Addison Street and through Lot 802, DP 1149748, Addison Street, Shell Cove. This access must be utilised by all construction vehicles and trucks as well as all employee construction vehicles. No access is permitted via the local roads of the Shell Cove estate.

The parking area for all vehicles associated to the construction works, including construction vehicles and vehicles of the construction staff must be contained wholly within the development site area or within Lot 802, DP 1149748, Addison Street, Shell Cove.

In this regard, prior to the commencement of each stage of the development, documentary evidence must be submitted to the Certifying Authority demonstrating that owners consent of Lot 802, DP 1149748, Addison Street, Shell Cove, has been provided for the site to be used for access and parking purposes.

The access path must be constructed as an all weathered sealed pavement and embellished to its original state with upon cessation of the access road.

The access route must be utilised for the duration of the construction phase or until such time that Harbour Boulevard is constructed and open/dedicated as a public road.

In the event that owners consent is not provided an alternative route must be investigated. In this regard, a Section 96 Modification to this development consent must be submitted at least two months prior to the commencement of that stage for the purpose of modifying this development consent condition.

The developer must ensure that all employees and delivery drivers are informed of the above requirements prior to the commencement of any works and/or deliveries.

D3 Maintenance of Erosion & Runoff Controls

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
- b. drains, gutters and roads must be 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.

D4 Site Management

Notwithstanding any other condition of development consent, to safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the construction period, the following practices are to be implemented:

- a. stockpiles of topsoil, sand, aggregate, spoil or other material shall be kept clear of any drainage path, easement, natural watercourse, kerb or road surface and shall have measures in place to prevent the movement of such material off the site
- b. builder's operations such as brick cutting, washing tools, concreting and bricklaying shall be confined to the development site area. All pollutants from these activities shall be contained on site and disposed of in an appropriate manner
- c. waste must not be burnt or buried on site, nor should wind blown rubbish be allowed to leave the site. All waste must be disposed of at an approved Waste Disposal Depot, and
- d. a waste control container shall be located on the development site.

During all stages of the development, the developer is responsible to ensure the above is maintained as well as the requirements of the Construction and Site Management (per condition B11), Soil and Water Management Plan (per condition B13).

D5 Site Remediation

The site must be remediated to a condition suitable for residential development. A remediation action plan is to be prepared in accordance with the Guidelines for Consultants Reporting on Contaminated Sites (OEH, 2011). The report must address the contamination assessment findings and provide recommendations to remediate the land.

D6 Remediation Works

All works proposed as part of the Remediation Action Plan that includes: remediation, excavation, stockpiling, on site and off site disposal; that includes storage, cut, fill, backfilling, compaction, monitoring, validations, site management and security must be undertaken in accordance with the Remedial Action Plan.

D7 Site Validation Report

A validation report incorporating a certificate of completion must be produced in accordance with the requirements of clause 17 & 18 of State Environmental Planning Policy No. 55. The certificate/report confirming that all decontamination and remediation works have been carried out in accordance with the remediation plan must be submitted to the Principal Certifying Authority within 30 days following completion of the works.

D8 Unexpected Finds Contingency

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

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

D9 Impact of Below Ground (Sub-surface) Works - Aboriginal Artefacts

If any Aboriginal archaeological artefacts are encountered during construction works, all ground disturbance in the area of the find must cease and the Department of Environment, Climate Change & Water (DECCW) be contacted immediately to determine an appropriate course of action in line of relevant legislation. Any request made by the DECCW to cease work for the purposes of archaeological recording must be complied with.

D10 Management of Noxious weeds

All machinery, vehicles and other equipment entering or leaving the site must be clean and free of noxious weed material, to prevent the spread of noxious weeds to or from the property.

D11 Provide A Truck Shaker

An approved truck shaker must be provided at the construction entry point, in accordance with Council's standards prior to the commencement of work to prevent dust, dirt and mud falling on roadways. Ingress and egress from the site must be limited to this single access point only.

D12 Air Quality

Dust emissions shall be confined within the site boundary. The following dust control procedures may be employed to achieve this objective:

- a. dust screens may be erected around the perimeter of the site
- b. all loads entering or leaving the site must be securely covered
- c. water sprays shall be used across the site to suppress dust, and
- d. when excavating, the surface should be kept moist to minimise dust.

D13 Waste Management

The management of waste must comply with the approved Waste Management Plan. All receipts such as waste disposal dockets must be retained (refer Part E).

D14 Storage of Materials

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

D15 Survey Certification

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

The report must certify all of the following:

- a. the distance of the structure to all boundaries of the allotment are in accordance with the approved plans
- b. the height of the floor level/s in relation to the natural ground level are in accordance with the approved plans, and
- c. the garage floor level complies with the garage floor level shown on the approved plans and grades comply with Council's gradient standards.

Note: Australian Height Datum must be used.

D16 Building Height - Survey Certification

The building must not exceed the height shown on the approved plans.

A report from a registered surveyor must be provided to the Certifying Authority on completion of the roof frame prior to covering the roof certifying that the height of the building is in accordance with the approved plans.

D17 Drainage & Pavement - Survey Certification

Certification of pits and stormwater pipelines must be submitted to the Certifying Authority prior to backfilling. Certification of paved areas must be submitted to the Certifying Authority after the formwork for the driveway has been completed and prior to the concreted being poured. All levels must relate to Australian Height Datum.

D18 Lots and Site Filling

All lot and site filling must be performed under level 1 Geotechnical supervision in accordance with AS 3798-1996 or subsequent amendments.

D19 Geotechnical Testing

Geotechnical testing to verify that the pipe trench bedding and backfill complies with the requirements for HS2 bedding/backfill.

D20 Retaining Walls

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

D21 Engineer Designed Pavement

All car parking areas, manoeuvring areas and the access aisle must be paved, drained and marked. The pavement must be designed by a qualified Civil Engineer and certified to be satisfactory for the expected traffic loadings from a development of this size and type. Australian Standard 'Guide to Residential Pavements' (AS 3727-1993 or subsequent amendments) can be used as the design guideline for the pavement design.

D22 Vehicular Layback

An industrial standard vehicular layback crossing must be constructed at all points of access. This work must be carried out by Council, or a Council approved contractor, at the developer's expense, including all alterations of public infrastructure where necessary.

D23 Driveway - From Kerb to Property Boundary

An industrial standard vehicular concrete driveway must be constructed between the kerb and the property boundary at the following locations:

- a. a dual entry and egress access on Harbour Boulevard with a maximum width of 5.2m for each driveway
- b. a 6m wide driveway from the Brigantine Drive access, and
- c. a 5.5m wide driveway for the temporary access point from Cutter Parade.

The driveway must maintain a perpendicular alignment from the kerb to the property boundary line and must be finished with a slip resistant coating.

Vehicular access must not interfere with the existing public utility infrastructure or existing street trees. The driveway must be 500mm clear of all drainage structures, 2m from a street tree and a minimum of 6m from the kerb tangent point for corner allotments.

Driveway construction works must be carried out by Council, or a Council approved contractor, at the developer's expense, including all alterations of public infrastructure where necessary.

Note: Where there is conflict between the location of the proposed driveway and the assets of a service utility, such as Telstra pits/manholes, the relevant service provider must be contacted prior to any driveway works commencing. It is a criminal offence to modify or tamper with the assets of a service provider.

D24 Grated Drain

A grated stormwater drain must be constructed across the driveway, in the locations proposed the Stormwater Plan prepared by Jones Nicolson, drawing numbers C03P2, C05P2 and C06P2.

D25 Connection to Council Pit

Connection to a Council pit is to be made through the hole that is to be neatly made by cutting or drilling. Any reinforcement encountered is to be cut away. The connection shall not protrude the inner surface of the Council pit. Following a satisfactory inspection by Council, the junction shall be finished with 2:1 cement mortar.

An application under section 138 of the *Roads Act* is required prior to works commencing.

D26 Works In, On or Over a Public Road

In accordance with section 142(i)(a) of the *Roads Act 1993* the person who has a right to the control, use or benefit of a structure or work in, on or over a public road (namely a footpath crossing), must maintain the structure or work in a satisfactory state of repair.

D27 Works

All of the works required to be carried out under the conditions of this consent must be maintained at all times in good order and repair.

D28 Requirements for Approved Garbage Room

The following requirements must be incorporated within the construction design of the garbage room located within the Residential Aged Care Facility:

- a. the garbage room shall be constructed of solid material, cement rendered and steel trowelled to a smooth even surface
- b. the floor of the garbage room shall be of impervious material, coved at the intersection of the walls and graded and drained to an approved floor waste that discharges to the sewer, and
- c. the garbage room must be ventilated to the external air by natural ventilation or an approved mechanical ventilation system.

PART E - PRIOR TO OCCUPATION

E1 Occupation Certificate

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

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

E2 Seniors Housing Covenant

A covenant prepared pursuant to Section 88E of the *Conveyancing Act* shall be placed on the title of the land occupied by the seniors housing development to prohibit the occupation of the premises by residents other than:

- a. seniors or people who have a disability
- b. people who live within the same household with seniors or people who have a disability
- c. staff employed to assist in the administration of and provision of services to housing provided under *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

The definition of seniors and people who have a disability must be in accordance with clause 3 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

E3 Requirements for Seniors Housing or Housing for Persons with a Disability

The development is for the purposes of Seniors Housing or Housing for Persons with a Disability and is required to comply with the Schedule 3 (Standards concerning accessibility and useability for self-contained dwellings) of the *State Environmental Planning Policy (Housing for Seniors or People with Disability) 2004*. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

E4 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.

E5 Fire Safety Schedule Part 9 Environmental Planning & Assessment Regulation 2000

On completion of the building work, the owner of the building must submit to Council an annual fire safety statement from a competent person with respect to each statutory fire safety measure included in the Fire Safety Schedule.

The fire safety statement must certify that each statutory fire measure:

- a. has been inspected and tested by a person (chosen by the owner of the building) who is competent to carry out such an inspection and test, and
- b. was or was not (as at the date on which it was inspected and tested) found to have been designed and installed, and to be capable of operating, to a standard not less than that required by or under this Regulation or by the Council.

E6 Access Report Compliance

Prior to the issue of any Occupation Certificate, evidence from a suitably qualified and experienced person in the application of the Premises Standards must be submitted verifying that the development achieves the requirements contained within Access Report noted within condition B33.

E7 Energy Efficiency Certificate

Prior to the issue of any Occupation Certificate, evidence from a suitably qualified and experienced person in the application Section J of the *Building Code of Australia* must be submitted to the Principal Certifying Authority prior to issue of an Occupation Certificate. The Energy Efficiency Certificate must verify that the building has been constructed in accordance with the Energy Efficiency Report and complies with Section J (Energy Efficiency) of the *Building Code of Australia*.

E8 Statement of Compliance for Environmentally Sustainable Development

Prior to the issue of an Occupation Certificate, evidence from Vim Sustainability must be produced and submitted to the Principal Certifying Authority which verifies that the initiatives outlined within the ESD Statement, dated 15 February 2012 have been incorporated within the development.

E9 BASIX

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

E10 Compliance with Road Traffic Noise Assessment

Upon completion of all works and prior to the issue of a Occupation Certificate for each stage of the development, written certification from a suitably qualified and experienced acoustic consultant must be submitted to the Principal Certifying Authority stating that all noise mitigation measures have been incorporated in the development as recommended with the Road Traffic Noise Assessment Report, prepared by Renzo Tonin & Associates, dated 24 February 2012, Ref No: TF652-01F02 (Rev 2).

E11 Works As Executed Plans - Drainage

Works As Executed plans must be submitted to the Certifying Authority by a qualified engineer, licensed plumber or registered surveyor certifying compliance of all drainage works with the approved design 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 related to Australian Height Datum.

E12 Verification of Waste Management

Documentation verifying that all waste streams were managed in accordance with the Waste Management Plan must be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate. All records, such as waste disposal dockets or photographic evidence, must be retained by the Principal Certifying Authority.

E13 Site Facilities - Australia Post

Location points for mail delivery must satisfy the requirements of Australia Post.

E14 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.

E15 Final Geotechnical Report

A final geotechnical report prepared by a suitably qualified and experienced geotechnical consultant must be submitted to the Certifying Authority prior to the issue of the Occupation Certificate. The report shall include, but is not necessarily limited to:

- a. all earthwork operations
- b. a fill plan showing extent and depth of fill
- c. certification that all earthworks within the site have complied with the Subdivision Code. This shall include appropriate test results, and test location diagram and date of testing
- d. certification that all recommendations contained in geotechnical reports lodged in support of this development have been satisfied
- e. identification of all land affected by landslip or instability constraints (if applicable).

E16 Repairs to Public Infrastructure

Any damage to public infrastructure, other than that previously noted in the Dilapidation Report (refer Part C), shall be the responsibility of the owner of the property and 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.

E17 Sign for Visitor Parking

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

E18 Landscape Maintenance Period

To ensure establishment of the landscape, the completed landscaping works must be maintained for a six month period following the issue of an occupation certificate of the development. It is the responsibility of the developer to ensure that any defective landscaping and/or plantings shall be rectified/replaced at the conclusion of the maintenance period in accordance with the approved landscape plan.

E19 Notification

Before commencing operations, business details of the food business must be notified to the NSW Food Authority at www.foodnotify.nsw.gov.au.

E20 Waste Management Plan - Operational

- a. At the completion of each stage of the development and prior to the establishment of the final waste removal area, a strategy must be developed demonstrating:
 - i. how waste will be managed by the operator of the facility,
 - ii. how waste will be disposed of at a central location and appropriately collected by a contractor, and
 - iii. how the waste area will be maintained until such time that the final waste facility is constructed.

- b. At the completion of the final stage of the development a Waste Management Plan – Operational for the entire senior living development must be prepared by a suitably qualified and experienced consultant in waste management and submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate. The Waste Management Plan – Operational must address, but not be limited to, the following:
- i. identify all waste streams that will be generated by the facility
 - ii. detail typical volumes of each waste stream identified in a. above
 - iii. identify those waste streams that can be recycled or reused
 - iv. detail the management of all waste streams identified in a
 - v. details of waste stream separation on site, in particular, within the kitchen and staff areas (space allocation shown on floor plans)
 - vi. describe the equipment and system to be used for managing recyclables
 - vii. describe the equipment and system to be used for managing landfill waste
 - viii. describe the equipment and system to be used for managing any other waste streams such as medical waste
 - ix. describe arrangements for waste collection by waste contractors
 - x. describe arrangements and equipment for cleaning waste bins and waste storage areas
 - xi. detail arrangements for ensuring bins are stickered and ensuring staff/relevant persons are aware of how to use the waste management system correctly, and
 - xii. identify potential barriers to maximising resource recovery and minimising landfill disposal and develop possible workable solutions to overcome identified barriers.

PART F - PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

Not applicable as Torrens title subdivision is not proposed for the development.

PART G - AFTER ISSUE OF OCCUPATION CERTIFICATE/DURING OCCUPATION

G1 BASIX Commitments

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

G2 Plan of Management for the operation of the Senior Housing Development

The following must be incorporated and adhered to within the final Plan of Management for the operation of the senior housing development:

- a. the requirement Waste Management Plan – Operational as required by condition E20
- b. the maintenance of the levee banks and all landscaping as required by conditions B19 and E14
- c. the regular maintenance and inspection of the stormwater drainage system including, but not limited to the standby electric sump pump within the basement parking
- d. requirement that all graffiti be removed within 48 hours of the offence, and
- e. all conditions within Part G of this development consent as well as any other condition of development consent for the purpose of the operation of senior housing development.

G3 Allocation of Visitor Parking

The visitor car parking spaces must be suitably signposted and always be available for visitor parking. These spaces must not at any time be allocated, sold or leased to an individual owner/occupier.

G4 Use of Parking Bay off Cutter Parade

The short stay parking bay located along the southern boundary (Cutter Parade) must only be utilised by vehicles not greater than 12.5m long for pick-ups and deliveries. The use of the parking bay must be within the hours of 8am – 5pm, Monday to Saturday. The parking bay must be appropriately sign posted.

G5 Provision of Services for Residents

The operation of the senior housing development must comply with the requirements of clause 26 and clause 13(3) of the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*, including but not limited to making available a transport service (ie shuttle bus) to various commercial, open space precincts for all residents and ensuring the regular availability of medical practitioners and providers of health services. Such services must be available immediately upon the occupation of stage 1.

The operators must regularly assess the availability of all providers of health services to ensure the demands of the aging population within the estate are met.

G6 Provision of Accommodation

The operator must allocate a percentage of self-contained dwellings as well as beds contained within the residential aged care facility from culturally diverse backgrounds, including indigenous elders.

G7 Restriction on Occupation

For the ongoing life of the development, the building must only be occupied and provide accommodation for:

- a. seniors or people who have a disability
- b. people who live within the same household with seniors or people who have a disability
- c. staff employed to assist in the administration of and provision of services to housing provided under *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

The definition of seniors and people who have a disability must be in accordance with clause 3 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

G8 Separate Consent Required for Signage

This consent does not authorise the erection of any advertising/identification signage. A separate development application for any proposed signage (other than exempt signs under Council's *Exempt Development Control Plan* or *State Environmental Planning Policy (Exempt & Complying Development Codes) 2008*) must be submitted to Council, and approval granted, prior to the erection or display of any such signs. Regard must be given to Council's *Advertising and Identification Signs Development Control Plan* and *State Environmental Planning Policy No. 64 – Advertising & Signage* when preparing such an application.

G9 Use of commercial floor area within Residential Aged Care Facility

The commercial/retail floor area within the residential aged care facility shall be for the exclusive benefit and use for the residents and staff of the senior living housing. In this regard, approval is not granted or implied that the commercial/retail area is open to the public.

REASONS FOR THE IMPOSITION OF CONDITIONS

1. To minimise any possible adverse environmental impacts of the proposed development during and post the construction phase.
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.
5. To ensure the senior housing development and the services provided to the occupants is maintained in accordance with the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

Attachments

1. Location Plan
2. Development Plans (under separate cover)
3. Letter from NSW Government Planning & Infrastructure
4. Access arrangement
5. Undertaking from land owner of Lot 802, DP 1149748 (under separate cover and for Panel members only)

Development Application No. 104/2012
 Lot 8201, DP 1153225, Cutter Parade, Shell Cove

Attachment 1 - Location Plan



Attachment 2 - Development Plans

**UNDER
SEPARATE
COVER**

Development Application No. 104/2012
Lot 8201, DP 1153225, Cutter Parade, Shell Cove

Attachment 3 - Letter From NSW Government Planning & Infrastructure (Page 1 of 2)



Planning &
Infrastructure



Ms Elaine Treglown
Director
TCG Planning
PO Box 848
Wollongong NSW 2520

11/11368

Dear Ms Treglown

I refer to your letter to the Director General of 28 June 2011 seeking clarification on a number of matters relating to the application of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (the SEPP) on a proposed Seniors development in Shell Cove. The Director General has asked me to thank you for your letter and reply on his behalf.

I note that you seek information on 3 issues, and in response I provide the following general information.

Site Compatibility Certificates

The Department agrees with your assessment that a site compatibility certificate is not required for the proposed development. The subject land is zoned Residential 2(f) under the Shellharbour Local Environmental Plan 2000 (LEP) and seniors housing is permitted with consent as an innominate use in this zone (clause 24(1A)).

Residential flat buildings and maximum heights

While I consider that this is a matter for Shellharbour Council as it relates to the interpretation of the LEP rather than of the SEPP, I note that the Standard Instrument defines a residential flat building as a building containing 3 or more dwellings, and that this aligns with the definition of 'medium density development' in the Shellharbour LEP. On this basis, it would appear that 'residential flat buildings' are a development type that is permissible in the 2(f) zone and that, therefore, the 8m maximum height limit does not apply.

Floor Space Ratio (FSR) provisions


The SEPP identifies that Councils may not refuse a proposal to which the SEPP applies on the basis of FSR, provided that the FSR does not exceed specified controls. It does not state that the proposed development can not exceed those specified controls. However, if the proposed FSR exceeds the identified ratios, the consent authority is able to use FSR as a basis for refusing the application.

Development Application No. 104/2012
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Attachment 3 - Letter From NSW Government Planning & Infrastructure (Page 2 of 2)

If you would like to discuss these matters further, please contact Ms Louise Wells of the Department's Wollongong office, on 4224 9463.

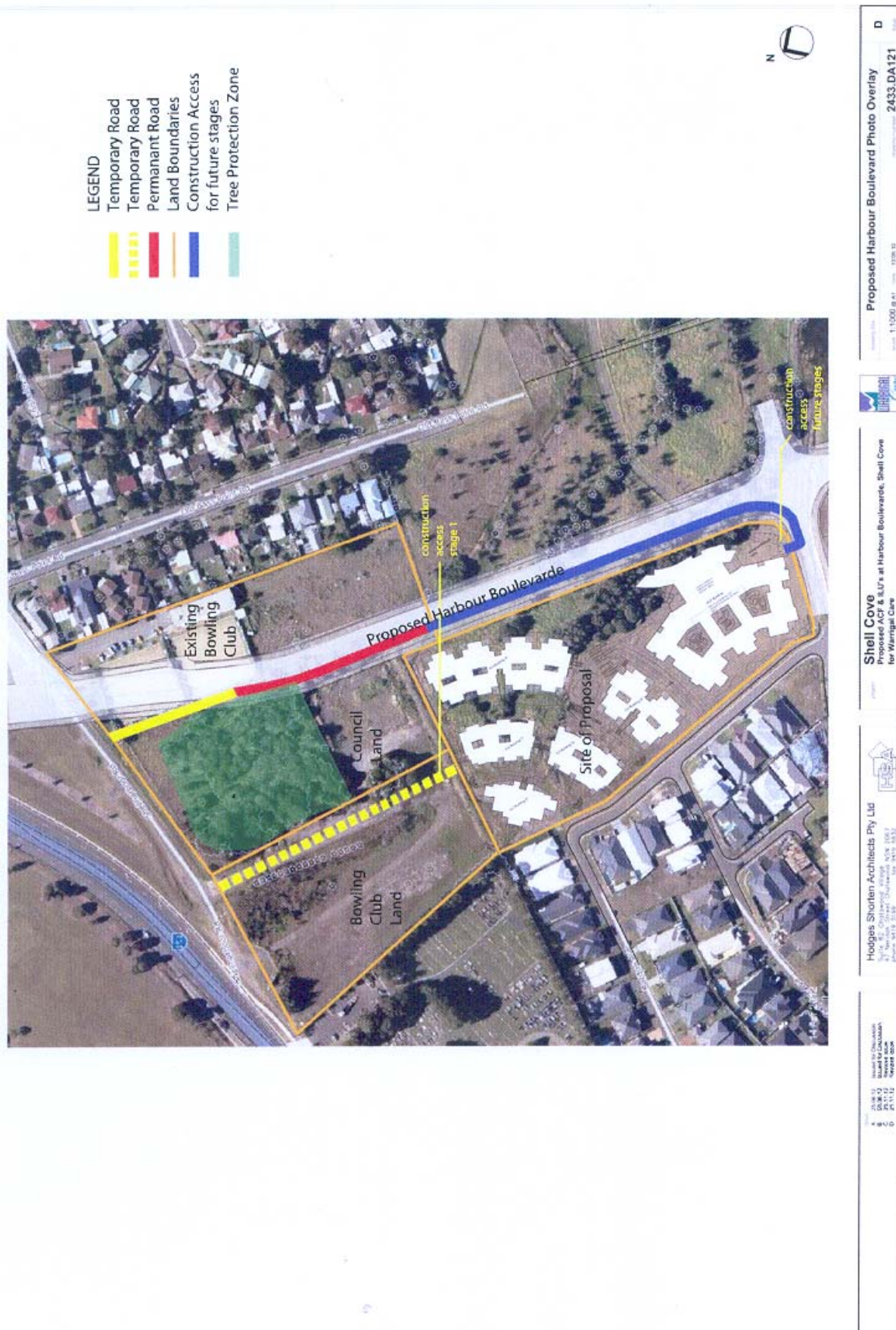
Yours sincerely


27/7/11

Tom Gellibrand
Deputy Director General
Plan Making and Urban Renewal

Development Application No. 104/2012
 Lot 8201, DP 1153225, Cutter Parade, Shell Cove

Attachment 4 - Access Arrangement



Attachment 5 - Undertaking From Land Owner Of Lot 802, DP 1149748 (Page 1 of 2)

UNDER SEPARATE COVER

for Panel members only