

JRPP No.	2012STH027
DA No.	DA No. 331/2012
PROPOSED DEVELOPMENT	Stage 1 Concept Approval for a seniors housing development Lot 2 DP 1043053 Wattle Road Shellharbour City Centre
APPLICANT	UnitingCare Ageing
REPORT BY	Victoria Nicholson (City Development) Shellharbour City Council Locked Bag 155 SHELLHARBOUR CITY CENTRE NSW 2529

Assessment Report and Recommendation

Executive Summary

Approval is sought under s83B of the *Environmental Planning & Assessment Act 1979* (EPA Act) for the Stage 1 Concept Approval for a seniors housing development and associated ancillary non-residential land uses.

Pursuant to Part 3 of Schedule 4A of the EPA Act the Joint Regional Planning Panel (JRPP) is the determining authority for this development application as the development has a Capital Investment Value of \$119,000,000.

The development application was submitted to Council on 8 October 2012 and publicly exhibited for a 21 day period. No submissions were received during the notification period.

The proposed development is generally consistent with the Council adopted precinct development strategy that relates to the site.

It is recommended that the JRPP approve Development Application No. 331/2012 subject to the recommended consent conditions provided at the end of this report.

1 Background

The proposal was the subject of pre-development consultations with Council via the preparation of a Precinct Development Strategy (PDS).

The site falls within the *Shellharbour City Centre Masterplan*. The City Centre comprises of a number of precincts that each have their own development pattern and function as detailed in the Masterplan. The subject site is described as 'precinct M' and is identified for future residential development including seniors living/seniors facilities. The masterplan and its accompanying development control plan (DCP) require a PDS to be developed for each

precinct. Whilst a PDS is to precede and inform/guide development applications, Council is not bound to the PDS by its endorsement.

The PDS was reported to Council because the PDS did not align with the height provisions in the Masterplan and because the PDS did not align with the height and floor space ratio development standards of the draft *Shellharbour Local Environmental Plan 2011*. Notwithstanding this, the PDS was adopted by Council 15.05.2012 as per the reports recommendation subject to all public uses being centred around the public square. A development application was subsequently lodged.

At the time the application was lodged, the exhibited draft *Shellharbour Local Environmental Plan 2011* was being processed by the Department of Planning & Infrastructure for gazettal. This Plan was gazetted on the 5 April 2013. The Plan however contains savings provisions that enable a development application to be determined 'as if the Plan has been exhibited but had not commenced'.

2 Proposal description

The application seeks approval for a Stage 1 concept approval pursuant to s83 of the EPA Act for the following:

- Building Envelopes, including a maximum height of RL59.4 or 6 storeys plus plant,
- Maximum Gross Floor Area – 45,800m²,
- 456 spaces parking spaces, and
- Land use - 352 seniors housing and associated land uses including community/administration space.

A separate Stage 2 or detailed application/s will be lodged in the future which will seek approval for the detailed design, internal fit out and operation of the buildings.

As seen in the figure below, the concept proposes 11 buildings comprising of 10 x 4-6 storey residential buildings and a church building at the northern end of the site. The axis of the residential buildings is north-south with dwellings predominantly facing east and west.

The form of seniors housing is self contained dwellings pursuant to clause 13 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (SEPP (Seniors Housing)).

Vehicular access to the site will continue to use the existing point of access at the northern end of the site. A second access point is proposed at the southern end of the site which adjoins a multi-dwelling housing development. This development will benefit from the 2 access points from/to Wattle Road.

Vehicular access to the existing multi-dwelling housing development is via an internal road located approximately mid block along the length of the subject site; the site is burdened with a right of carriageway to benefit the housing development. It is proposed to relocate this access to the new road that will be constructed along the western boundary. Vehicular access to the basement parking will be via the new internal road.

A number of open car parking spaces are proposed at grade at the south west end of the site.

There is a north-south central landscape spine which includes a series of pathways that link the various buildings. At the centre of the site, a large green area called "The Common"

(referred to as a public square in the PDS) transverses the site east-west and is envisaged will create a central community and communal focus.

The applicant has describe the following land uses as 'community facilities' to be available to both residents residing in the development and broader residents within the Shellharbour region: day care centre, church and community hall, café and other small localised supporting retail facilities, library, meeting/consulting rooms and a wellness centre inclusive of a swimming pool.



The indicative land uses are:

Basement (level 1)

Due to the topography of the site there will be 2 basement levels. The basement levels will be used for parking, waste storage areas, maintenance areas and a mens shed (104m²).

Ground floor (level 2)

This level will include residential floor area and a square of non residential uses to be used by the residents and the broader community such as consulting rooms (48m²), retail floor area (total - 316.5m²), day care (109m²), wellness centre and pool (626m²), activity/function room (305m²), library (113m²) and administration office. For buildings along the park edge, this level reads as the second level however for buildings facing Wattle Road at the northern end this level is the ground floor level.

Upper floor (level 3)

This level includes residential floor area, the basement car parking under buildings R1, R3 & R5, and non-residential floor area such as staff and office and retail floor area.

Upper levels (levels 4 - 6)

These levels will comprise of residential floor area as self-contained dwellings. For buildings R1, R3 & R5 level 4 is the ground floor level of the residential component. Due to site topography the 5th level of buildings along the park edge will comprise of roof plants as will the 6th level of buildings R7 & R9 at the north eastern end.

Upper level (level 7)

This level will comprise roof plant rooms of buildings R1, R3 & R5 toward the south eastern end of the site.

A 2 storey church building with basement car parking is proposed at the northern end of the site. The church will have floor area of about 1211m².

Attachments (following the draft development conditions)

1. Building Envelope diagram
2. Section I (through 'The Common' area)
3. Level 2 Plan indicative floor plan
4. Artists Impression – Aerial view from the north west

3 Description of locality and site

The subject site is legally described as Lot 2 DP 1043053 with a street address Wattle Road, Shellharbour City Centre.

The site is located at the eastern edge of the area identified as the City Centre. The site area is 4.26 hectares and is roughly rectangular in shape with its long sides forming the eastern and western boundaries. Its eastern boundary adjoins Wattle Road and the north and western boundaries adjoin open space known as Benson Basin. A single storey multi-dwelling housing development adjoins the southern boundary of the site.

The site falls approximates 10m in height from the east (Wattle Road) to the west (Benson Basin). The land is vacant, has grass cover and does not contain any significant vegetation.

The site is burdened by a right of carriageway providing access to the adjoining residential development to its south. An informal pedestrian pathway from the Wattle Road underpass exists east-west across the site to connect to other informal pathways across Benson Basin to the major commercial retail centre.

On the eastern side of Wattle Road is a corridor of open space with low density residential development to the east of this open space. In close proximity to the site, to the west of Benson Basin, is a major commercial and retail centre including medical services and public transport. A public hospital lies to the north of Benson Basin across Lake Entrance Road and a residential care facility lies to the south across the road from Benson Avenue.

Attachments

5. Locality plan

4 Planning framework

The following planning policies and controls are of relevance to the development and have been considered in the Section 79C assessment and form the basis of the Planning assessment:

State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy No. 55 Remediation of Land

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development

Illawarra Regional Environmental Plan No. 1 (Deemed SEPP)
Shellharbour Local Environmental Plan 2000
Draft Shellharbour Local Environmental Plan 2011 (as exhibited)
Shellharbour Local Environmental Plan 2013
Shellharbour Floodplain Risk Management Development Control Plan
Shellharbour City Centre Development Control Plan
Shellharbour Waste Minimisation Development Control Plan (Amendment 1)
Shellharbour Section 94 Contributions Plan 2005 (Amendment 1) dated 14 September 2006
Shellharbour Notifications Policy Development Control Plan
Shellharbour Landscape Guidelines
Shellharbour Stormwater Policy
Precinct Development Strategy – Precinct M

5 Planning assessment

This application has been assessed in accordance with Section 79C of the EPA Act 1979. The following comments are made with respect to the relevant provisions of EPA Act 1979 and development proposal.

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

5.1.1 State Environmental Planning Policy (Infrastructure) 2007

The development is classed as traffic generating development pursuant to Schedule 3 of the SEPP. Accordingly, the application was referred to the Roads and Maritime Services (RMS) in accordance with Clause 104.

In response to a RMS request, additional information relating to the SIDRA analysis was provided to RMS for their assessment. RMS reviewed the additional information and provided comments for Council's consideration.

Council's Engineer reviewed the letter from RMS dated 7.12.2012 and the applicant's response to the matters raised by RMS (dated 17.01.2013), concurred with the applicants comments and assessment thereof, and raised no issue with the proposal. The applicant noted that when an application/s is lodged for the construction of the buildings, matters raised by RMS will be considered in the final design and construction plans.

5.1.2 State Environmental Planning Policy No. 55 Remediation of Land

The Statement of Environmental Effects (SEE) includes a preliminary geotechnical investigation. Whilst there were no obvious signs of contamination across the site or observed in the test pits, it notes that the investigation did not constitute a preliminary contamination assessment. Notwithstanding this, as the site has not been developed, there is no history that it has been used for any purpose that may result in contamination and Council's contamination mapping does not reference this site, it is considered that contamination is highly unlikely.

5.1.3 Illawarra Regional Environmental Plan No. 1 (IREP No. 1) (Deemed SEPP)

Whilst this Plan applies to the site, there are limited applicable provisions. Of relevance is Part 17, relating to high rise buildings in the region. Under clause 139(3) where a building is proposed to exceed 11m, the Director General of the Department of Planning and Infrastructure must grant concurrence. This function has been formally delegated to Shellharbour City Council.

The definition of height as contained in the IREP No. 1 is reproduced below:

***height**, in relation to a building which has ceilings, means 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.*

When considering a proposal greater than 11m, the following must be taken into consideration:

- a. *the height, scale, bulk and density of the proposed building*
- b. *the external appearance and materials used on the exterior of the proposed building*
- c. *the relationship of the proposed building to the streetscape or landscape*
- d. *the effect of the proposed building on public amenity, including pedestrian amenity*
- e. *the effect of the proposed building on wind patterns and wind velocity in public places*
- f. *the effect of the proposed building on overshadowing of public places*
- g. *the effect of the proposed building on views from public places*
- h. *the effect of the proposed building on any item of the environmental heritage in the vicinity, and*
- i. *the effect of reflections from the exterior of the proposed building on roads, public places and buildings in the vicinity.*

The section plans show that the building envelopes exceed 11m in height^{NOTE 1} with an average height of about 12-15m. Building envelopes that exceed 15m but less than 18.5m (20m inclusive of roof plant) are located within the centre of the development away from the street and park edges. The height of the building envelopes step down across the site reflecting the existing topography.

The building envelope heights are consistent with the PDS which includes the following height controls:

- 4 storeys fronting Wattle Road with any 5 storey internal to the site with under building parking (p.20)
- 4 storey height limit to Wattle Road relates to a building height of 15m to the road and 18m internally (p.38)
- 4 storey height along the park edge relates to a building height of 15m to the (internal) road and 9-12m internally (p.38).

It should be noted that the PDS was the subject of extensive negotiation between the proponent and Council officers, and was adopted by Council in accordance with the Senior Strategic Planner's recommendation.

Building height controls are one design element to address the bulk and scale of a development. The separation distance between the building envelopes are generally consistent with the *Residential Flat Design Code*. The boundary setbacks of the building

envelopes from the main road and open space areas, and the separation distance from the adjoining housing development to the south is evidence that the context of the locality has been taken into account. Building envelopes are 'broad brush' in that future building design will be both horizontally and vertically articulated and include detailed design elements including external materials.

It is not envisaged that height of future buildings will impact on wind patterns in the locality, cause reflection and glare nuisance, or affect items of environmental heritage or pedestrian amenity. The shadow diagrams submitted in support of the application demonstrate minimal adverse overshadowing of public places.

Note 1: The heights shown on the plans relate to building envelope heights and not to ceiling level of upper floors.

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

The Seniors Living SEPP aims to increase the supply and diversity of housing that meets the needs of seniors or people with a disability and be of good design.

Seniors housing in the form it is proposed (residential flat buildings) is permissible on the land with development consent. The type of housing will comprise of self-contained dwellings as defined in clause 13 of the Seniors Living SEPP.

The accompanying access report states that the requirements of clause 26 relating to location and access to facilities and services can be met. The report does refer to the Wattle Road underpass as providing an accessible route to a public transport stop and to the pathways over Benson Basin to a major commercial-retail centre however, the proposed works to access the underpass appears to include steps and so will not comply with the acceptable pathway gradients, and the pathways on the adjoining land may change or be removed if, and when, this open space area is developed. Notwithstanding, the development does not appear to rely on these pedestrian access paths in order to satisfy clause 26.

The design principles of clause 33 'neighbourhood amenity and streetscape' have been addressed in the SEPP 65 report which notes that the proposal is generally consistent with the PDS; building siting, height and boundary setbacks in context of the locality were considerations in the formulation of the PDS. Compliance with the other design principles of privacy, design for climate and solar access, stormwater, crime prevention, accessibility and waste management (clauses 34-39) will need to be undertaken when full design details are submitted with future Stage 2 application/s. With regard to solar access to the neighbouring single storey multi-dwelling housing development to the south, the separation distance of this existing development and the proposed building envelopes of the nearest buildings of about 32 metres will ensure adequate solar access to the internal living and private open space areas of the neighbouring development, as shown on the submitted shadow diagrams.

With regard to clause 50 'standards that cannot be used to refuse development consent' the following is noted:

- The PDS has a FSR of 1.1:1; the proposed FSR is 1.074:1. There is no FSR provision under SLEP 2000, Shellharbour City Centre DCP and Masterplan.
- The development will be able to provide adequate landscape and deep soil zone areas. Although the submitted plan overestimates deep soil zone areas as includes areas less than 3m in dimension, the development can satisfy this standard.
- Preliminary assessment in the SEPP 65 report estimates that 70% of dwellings will have a minimum 3 hours of sunlight on the winter solstice.

- Parking on site meets the parking standard. With regard to the parking needs of visitors and employees that will service the administrative and maintenance functions of the development parking, the note to the clause is relevant which states 'the provisions of this clause do not impose any limitations on the grounds on which a consent authority may grant development consent'. Although the site has reasonable proximity to a major commercial-retail centre, the level of public transport is generally poor and it is reasonable to expect a high dependence on private transport (eg cars).

The development standards of this clause, which also include private open space, will be further assessed with future Stage 2 application/s.

5.1.5 State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development

SEPP 65 applies to the proposal. The SEPP aims to improve the design quality of residential flat buildings in New South Wales. As required by the Regulations, the application is supported by a SEPP 65 Design Verification Statement including that the development was designed by a registered architect. The Statement outlines how the proposal satisfies, or that it is capable of complying at the Stage 2 application/s, the design quality principles set out in Part 2 of the SEPP and the key rules of thumb in the associated *Residential Flat Design Code*. The Statement notes that the proposal is generally consistent with the site specific PDS.

Given that the development site is not in a busy city street but at the periphery of the city centre along Wattle Road which has an open edge, as open space north and east of Wattle Road, the buildings should not present to Wattle Road as a hard built edge but rather have a high degree of articulation. As building height increases, building setbacks/articulation zones from the street boundary for the upper storey/s may need to be increased to ensure the future buildings do not have an adverse impact on the streetscape and character of the area. Without the benefit of detailed design, including the degree of building articulation, it is recommended that the upper levels of the buildings facing Wattle Road have an increased building line.

A plan submitted show structure/s encroaching into the building line/articulation zone, for example an awning structure extending to the Wattle Road frontage. Encroachment/s are not shown on the building envelope plan which details a minimum 8.0m building line inclusive of a 2.5m articulation zone for the residential buildings. Accordingly a condition is recommended that deletes any building elements outside the building envelopes shown on plan. Any horizontal building encroachments into the (approved) building lines can however be considered subject to full details as part of future Stage 2 application/s.

5.1.6 Shellharbour Local Environmental Plan 2000 (SLEP 2000)

Permissibility & Zone Objectives

Under the provisions of the SLEP 2000, the site is zoned 2(e) Mixed Use Residential. The proposed housing development, community facility and commercial-retail floor area are permissible development subject to development consent.

The objective of the 2(e) zone is 'To allow for mixed use residential neighbourhoods to be developed on 'greenfields' sites providing for a range of household preferences and needs compatible with fully developed residential neighbourhoods' (clause 23(2)).

As the proposal includes retail and commercial floor area clause 25 needs to be considered.

Assessment on relevant clauses

Clause 25 Controls to promote commercial hierarchy with zones 2(e) & 2(f)

This clause is reproduced below.

Despite any other provision of this plan, the Council may consent to commercial or retail development (or mixed commercial and retail development) on land within Zone 2 (e) or 2 (f) only if, in the opinion of the Council, it will promote the commercial hierarchy for the Shellharbour City local government area presented in Schedule 4.

The proposed total retail-commercial floor area at 364m² is considerably less than what the PDS provided for (560m² & 1840m² respectively). The indicative retail-commercial floor area includes a therapist, beauty treatment rooms, consulting rooms and café on level 2 and retail on level 3. The retail and commercial areas are discontinuous and are located around 'The Common' which will include a day respite centre and a wellness centre. Uses will not be signed and/or located at street level as per a typical retail-commercial premises, rather these will primarily function as ancillary to the housing development.

The proposed form of housing will contribute to housing diversity and needs of a particular sector of the population. The retail-commercial land uses will largely function to provide ancillary services to its resident population. Accordingly, it is not considered that the proposed commercial-retail floor area will compromise the commercial-retail hierarchy of Schedule 4.

Clause 84 Development in the vicinity of Illawarra Regional Airport

This clause is reproduced below.

Despite any other provision of this plan, consent must not be granted to development on land affected by restrictions as indicated in the plan titled "Airport Height Limitation and Noise Exposure Forecast Plan" dated 17 April 1998 and held in the office of the Council unless:

- a. the consent authority determines the proposal is acceptable in relation to building height, noise exposure, lighting and bird hazard management, and*
- b. where a proposal does not comply with that plan, the Civil Aviation Safety Authority has been given notice of the proposal and any comments made by it to the consent authority within 28 days of its being notified have been taken into consideration by the consent authority.*

The proposal is considered acceptable with respect to height, noise exposure, lighting and bird hazard management. Having regard to this clause, the overall height of the development is satisfactory as it will not intrude into the obstacle height limitation surfaces specified for the area/site which approximate 95 - 105m AHD. The maximum proposed height is 59.4m AHD (buildings R1, R3 & R5 – building envelope + roof plant).

5.1.7 Shellharbour Local Environmental Plan 2013 (SLEP 2013)

Draft *Shellharbour Local Environmental Plan 2011* (Draft SLEP 2011) was recently gazetted on 5 April 2013, renamed SLEP 2013, and includes a savings provision relating to development applications. Clause 1.8A of this Plan enables a development application that has been made, but not finally determined, before the commencement of SLEP 2013, to be determined as if the Plan had not commenced.

With regard to the subject site the land use zone, zone objectives, development permissibility, development characterisation and development standards of SLEP 2013 have remained the same as in the exhibited Draft SLEP 2011. These matters are discussed in section 5.2.1 of this report.

5.2 (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

5.2.1 Draft Shellharbour Local Environmental Plan 2011 (Draft SLEP 2011)

The provisions of Draft SLEP 2011 for this site were based on the provisions of SLEP 2000, *Shellharbour City Centre Development Control Plan* and *MasterPlan*. The PDS does not comply with the height and FSR development standards of the draft Plan. The detailed site specific planning and preparation of the PDS primarily occurred after the exhibition of Draft SLEP 2011. The Department of Planning & Infrastructure were reluctant, post exhibition, to make an exception to a specific site. With the adoption of the PDS by Council, the PDS can be viewed as Council's 'policy' position on future development on this site.

Permissibility & Zone Objectives

The subject site is zoned R3 Medium Density Residential under the provisions of Draft SLEP 2011. The objectives of the R3 zone are

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

Development of seniors housing, community facilities and neighbourhood shops would be permissible with consent pursuant to the land use table of Draft SLEP 2011. As describe in section 2 a range of land uses have been described as 'community facilities'. Future Stage 2 application/s, which will be subject to the planning framework that prevails at the time, will need to demonstrate that the 'community facilities' comply with its definition in the Dictionary of the Plan.

The following is an assessment against the principle development standards of Draft SLEP 2011 relating to building height, floor space ratio and neighbourhood shop floor area. The draft Plan contains an exceptions to development standards clause to enable the consent authority to consider variations on merit and allow an appropriate degree of flexibility (clause 4.6). In this regard, this clause will be relevant to future Stage 2 application/s.

It is noted that to achieve the aims of Seniors Living SEPP local planning controls are set aside that would prevent the development of housing for seniors and people with a disability that meets the development criteria and standards in the Policy. In this regard the SEPP is an enabling planning instrument.

Assessment on relevant clauses

Clause 4.3 Height of Buildings

The development standard for building height for the site is 12m. The maximum building envelope height inclusive of roof plant approximates 20m.

Clause 4.4 Floor Space Ratio (FSR)

The FSR development standard for the site is 0.7:1. The proposed FSR is 1.07:1.

The proposed height and FSR of the development should not undermine the objectives relating to these development standards. The subject site is rather unique R3 zoned land in that, with exception of its southern boundary, it is surrounded by open space which separates the site from the city centre. The siting of the nearest building envelopes relative to the neighbouring residential development is consistent with the FSR objectives.

5.4 (7) Controls relating to neighbourhood shops

Commercial premises (a group definition) are not permitted in the zone with exception of neighbourhood shops. The development standard for the maximum retail floor area of a neighbourhood shop is 80m².

Commercial type land uses, unless separately defined in the Dictionary (eg community facility), will need to be ancillary to and primarily for residents of the development.

5.3 (1) (a) (iii) Development Control Plans

5.3.1 Shellharbour Floodplain Risk Management Development Control Plan

The development appears capable of satisfying the objectives and relevant provisions of the DCP and relevant conditions have been recommended to address flood planning controls. Compliance with the DCP will be assessed with the detailed design of future Stage 2 application/s.

5.3.2 Shellharbour City Centre Development Control Plan & MasterPlan (SCC DCP)

Building height

Building height is not numerically defined but reference is made to the number of storeys permitted on a site, which for this site is 3 storeys. With reference to steep sites, the Masterplan notes that building heights should be a little flexible and to not count basement and semi-basement levels as floors. In the development of the PDS, the proposed increase to 4-5 storeys was extensively discussed and was supported having due regard to the local context of the site. Building height has been discussed elsewhere in this report.

Parking

Parking for the non-residential land uses complies with the parking provisions of the DCP. However should there be changes to the floor areas to and/or type of non-residential development, additional car parking may be required and would be a consideration in future Stage 2 application/s. The church building includes a community hall however car parking rates have been based on church seating capacity (300 seats) and employee numbers (7). As no parking allowance has been made for the use of this space independent of the church a condition has been recommended to address this.

Indented parking spaces are shown on the submitted plans. The applicant has advised that the parking spaces on Wattle Road have not been included in the total car parking numbers. As the application only seeks approval for on-site parking it is recommended that a condition be imposed to ensure that no approval is given or implied under this consent for the car parking and associated works on Wattle Road.

Any decrease in the amount of car parking provided would need to note that the number of spaces provided for the non-residential land use component satisfies only the basic minimum car parking requirements and that the rationale for the visitor parking rate for the residential component has not been provided by the applicant. It is noted that there is no numerical provision for visitor car parking requirement for seniors housing development in the Seniors Housing SEPP or a DCP.

Visitor car parking appears to be located at the south western corner of the site. Good design suggests that parking for all visitors to the site be located throughout the site to enable visitors to have easy and fair access to parking. In this regard a condition has been recommended to address this matter.

Future Stage 2 application/s will need address Council's requirements for car parking space dimensions and vehicle manoeuvring; it is noted for example that car parking dimensions provided in the supporting information are less than Council's requirements.

Precinct Development Strategy – Precinct M - Eastern Residential/Seniors Living

As discussed elsewhere in this report, a site and development specific PDS applies to the land. Although it is noted that Council's approval of the PDS does not give any legal approval for a development, the detailed planning principles and controls contained therein provide a framework in the assessment of an application.

The PDS contains a range of conceptual provisions including:

- three dimensional perspective of the concept showing building envelopes and other development features,
- site layout,
- landuse mix and distribution,
- pedestrian movement and public domain,
- vehicular access and parking arrangements,
- street types, and
- building types and details

Negotiations between the proponent and Council Officers in the PDS process centered on the in principle merits of elements of the PDS, with key outcomes of these negotiations being:

- up to five storeys can be considered,
- vehicular access is provided from the northern end of the site by the existing intersection/private access road running off Wattle Road,
- the retention of existing Wattle Road underpass for pedestrian access through the site, and
- the location of the square was moved south to line up and create vista with Carrington Street. Council also requested all commercial, retail, community facilities be provided around the square to activate it, centralise public activity and minimise travel demand within the site.

The current application is generally consistent with the PDS. The proposed changes to pedestrian movement through the site whereby pedestrians who use the underpass are redirected to the street level at the earliest opportunity is supported by the Community Safety Officer subject to CPTED principles being integrated into the final design. The parking numbers are substantially less than that proposed in the PDS. The applicant justifies this in saying that the numbers were indicative only and were not based on detailed calculations. As mentioned previously, the commercial-retail floor area has decreased which will decrease the required parking associated with this land use. The proposed number of spaces complies with relevant provisions.

5.3.3 Shellharbour Waste Minimisation & Management Development Control Plan

The SEE included waste generation estimates during the operational stage of the development. Full details of how the development can satisfy the objectives and relevant provisions of the DCP during both the construction and operational phases of the development will need to be provided in the future Stage 2 application/s.

5.4 (1) (a) (iiia) Any draft planning or planning agreement that has been entered into

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

5.5 (1) (a) (iv) The Environmental Planning and Assessment Regulation 2000

The proposal is not within the Coastal zone. Demolition is not proposed.

5.6 (1) (a) (v) Any Coastal Zone Management Plan

None relevant to the proposal/site.

5.7 (1) (b) Likely impacts of the development

No works are proposed as part of the Stage 1 Concept Approval. Future application/s for the building work and use will include an assessment of likely impacts associated with these stages.

Drainage

Drainage of the site is discharged to the downstream basin west of the site. Written owners consent has been provided with the application to drain to the adjacent lot (2000/717478). Having regard to the possible future dedication of this land (Benson Basin) to Council, Council's Property Manager raises no objection to the proposed future works and any associated restriction on title in the dedication of this land.

Site Access

The development proposes 2 access points to the development, the first utilising the existing access road at the northern end of the lot. An additional access point at the southern end of the lot is proposed, 60m north of Benson Basin. This has been assessed as acceptable by Council's Subdivision Development Engineer. With regard to the comments made by the RMS and response by the applicant, it is agreed that the development does not warrant the need for acceleration and deceleration lanes on the southern and northern access points of Wattle Road. There is adequate sight distance when making egress of the property from both access points. A right turn bay is provided travelling northbound of Wattle Road when accessing the property at Davey Close. When travelling southbound it is not envisaged that there will be great speeds generated by vehicles due to the traffic signals at the intersection of Benson Avenue and Wattle Road to warrant a deceleration lane at this location.

Social Impact

A Community Needs Analysis Report was submitted as part of the application. The report identifies a current shortfall in, and the expected growth in demand for, the proposed form of housing. The report concludes that the development will constitute a significant public benefit to the LGA.

5.8 (1) (c) Suitability of the site for development

The site is suitable for the development as discussed elsewhere in this report. The land has been identified as a site for seniors housing in the SCC MasterPlan. The site lends itself to a higher level of density given its proximity to the City Centre.

5.9 (1) (d) Submissions

The development application was publicly notified in accordance with the provisions of the *Shellharbour City Council's Notifications Policy Development Control Plan*. The notification period commenced 25.10.2012 and closed 14.11.2012. This exceeded the 14 typical period stipulated by Council's Plan.

No submissions were received during the notification period.

5.10 (1) (e) Public Interest

The proposal is considered to be within the public interest. Increasing the supply of housing pursuant to Seniors Living SEPP will contribute to the diversity of housing in the LGA and meet an identified need for this form of housing.

6 Referrals

During the assessment a number of internal and external technical referrals were made seeking expert opinion on key issues.

- Strategic Planner
- Landscape Technical Officer
- Section 94 Accountant
- Team Leader - Building
- Traffic Engineer
- Development & Subdivision Engineer
- Community Safety Officer
- Community Planner
- Manager Property & Recreation

External Referral was made to

- Roads & Maritime Services

7 Recommendation

It is recommended that the JRPP, as the consent authority, approve Development Application No. 331/2012 for the Stage 1 concept plan for housing for seniors and people with a disability and various ancillary non-residential land uses at Lot 2 DP 1043053, Wattle Road Shellharbour City Centre subject to the recommended development consent conditions shown below.

DEVELOPMENT CONSENT CONDITIONS

Mr Graeme Fieldon
Uniting Care Ageing
222 Pitt Street
SYDNEY 2000

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Issued under the Environmental Planning & Assessment Act 1979 Section 81(1)(a)

Being the applicant of Development Application No. 331/2012 (JRPP Reference 2012STH 027) for consent to the following development:

**STAGE 1 CONCEPT APPROVAL FOR SENIORS HOUSING DEVELOPMENT &
ANCILLARY NON RESIDENTIAL USES**

LOT 2 DP 1043053

WATTLE ROAD, SHELLHARBOUR CITY CENTRE

Determination date of consent.....(Date of JRPP Meeting)

In accordance with section 83B of the Act the Development Application has been determined by the GRANTING OF CONSENT BY THE SOUTHERN REGIONAL JOINT REGIONAL PLANNING PANEL ON (INSERT DATE) SUBJECT TO THE CONDITIONS DESCRIBED BELOW.

1 Concept Approval

Except where modified by conditions of this consent, the concept approval for the development comprises of:

- a. Building envelopes, inclusive of roof plants and articulation zones, for 11 separate buildings
- b. 456 on site car parking spaces^{NOTE A}
- c. Maximum gross floor area of 45,800m² made up of
 - i. Up to 352 self-contained dwellings for seniors housing^{NOTE B}
 - ii. Wellness Centre and Pool (626m²)
 - iii. Daycare Centre (respite care) (109m²)
 - iv. Consulting Rooms (48m²)
 - v. Therapist and Beauty Treatment Rooms (105m²)
 - vi. Cafe/retail (211.5m²)
 - vii. Church (1,211m²)
 - viii. Activity/Function Hall (305m²)

- ix. Village Office and Other Administration Areas (632m²)
- x. Mens Shed (104m²)
- xi. Library (113m²)
- xii. Staff and Resident Amenities (346m²)
- xiii. Maintenance (82m²).

Note A: The stated number of on site car parking spaces does not include the ambulance, 'drop off' or bus parking zones.

The stated number assumes that the community hall component of the church building is not for use by the wider community independent of church services and related activities. The proposed number of basement car parking spaces (37 spaces) meets the requirement for the church component only.

Note B: Housing pursuant to *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

2 Approved Plans & Documentation

The development shall generally be in accordance with the following plans except as otherwise modified by conditions of this consent.

Name of Plan	Prepared By	Drawing No./Revision	Drawing Date
Building Envelope Diagram	PTW Architects	-	18.02.2013
Floor (Indicative) Level 1 - Level 7 & Roof Plant Plans	PTW Architects	212.030 Revision A A-DA-01; A-DA-02; A-DA-03; A-DA-04; A-DA-05; A-DA-06 & A-DA-07	14.09.2012
Building Height Plans	PTW Architects	212.030 Revision A A-DA-09 212.030 -DA-26 & A-DA-27	14.09.2012 21.01.2013
Section 1-6 Plans	PTW Architects	212.030 Revision A A-DA-20; A-DA-21; A-DA-22; A-DA-23; A-DA-24 & A-DA-25	14.09.2012
Concept Drainage	Northrop	DA5.01-DA5.03 Rev 1	09.09.2012
Concept Bulk Earthworks Plan	Northrop	DA3.01-DA3.04 & DA3.11	09.09.2012
Concept Site Works Plan	Northrop	DA4.01 & DA4.02	09.09.2012
Statement of Environmental Effects	JBA Planning	12531, Volume 1 of 1	September 2012
Letter from Roads & Maritime Services	B Lefoe	Ref:STH12/00222	07.12.2012

3 Modifications to the Approved Plans

- a. The proposed road on the site is to be referred to as road no. 1 or similar. That is, the road is not to be identified as Park Street or by any other name. Separate application, and approval, will need to be made to Council for proposed street name/s for any new roads.
- b. No approval is given or implied under this consent for:
 - i. the pathways, steps and ramps located on adjoining land/s.
 - ii. the indented car parking bays on Wattle Road.
 - iii. structure/s forward of the approved building lines.
- c. The Wattle Road front building line for the 4th and 5th levels of buildings R1, R3, R5, R7 and R9 shall be increased by at least 2 metres with any encroachments limited to non-roofed terraces, unless otherwise demonstrated that the development satisfies *State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development* and the accompanying *Residential Flat Design Code 2002* (or subsequent amendment).

4 Limits on the Consent

This consent does not authorise any components of the Concept Approval to be carried out without further approvals or consents being obtained.

5 Future Development Requirements

- a. Where future development is to be staged, an indicative staging plan identifying the likely timing and sequence for each stage should be submitted with the first building stage. Each stage must provide the required on-site facilities to enable proper functioning of the development for that stage.
- b. Best practice Crime Prevention Through Environmental Design principles shall be incorporated into development design. This requirement includes the proposed relocation of the existing pedestrian public pathway to the pedestrian underpass.
- c. Visitor car parking shall be separate from the residential, employee and commercial parking needs of the development, and be easily identifiable and accessible. Visitor parking shall be located at various locations throughout the development.
- d. The Construction Management Plan for the applicable stage shall detail how:
 - i. pedestrians/cyclists will be able to continue to access the pedestrian underpass and/or detail alternate arrangements that continue to allow similar pedestrian/cyclist movement.
 - ii. vehicular access to the adjoining NSW Housing development will continue.
- e. The development shall demonstrate that clause 26 of *State Environmental Planning Policy (Housing for older People or People with a Disability) 2004* can be satisfied without relying on access pathways on adjoining land/s.
- f. The maximum depth of cut or fill on any portion of the allotment must be detailed in all subsequent development applications involving construction works and should be in accordance with the Concept Bulk Earthworks Plan drawing no. DA3.01-DA3.01, DA3.11, dated 9.09.2012.

- g. Detailed drainage designs of all subsequent development applications involving construction works approval must:
- i. be generally in accordance with Concept Stormwater Drainage Plan drawing no. DA5.01-DA5.03 Rev 1 prepared by Northrop dated 09.09.2012
 - ii. drain to the detention basin west of the site
 - iii. indicate the method of disposal of all stormwater and must include rainwater tanks, existing ground levels, finished surface levels on all paved areas, estimated flow rates, invert levels and sizes of all pipelines
 - iv. be designed to cater for a 1 in 20 year Average Recurrence Interval storm event
 - v. provide overflow drainage paths which are designed to cater for 1 in 100 year Average Reoccurrence Interval storm event
- h. A Shared Use Path, minimum 2.4m in width, on Wattle Road extending from the south to the north of the lot, is to be included with the subsequent development application/s involving construction works. Such works will need to be undertaken by the developer and at not cost to Shellharbour City Council.
- i. All traffic and access to the site must be in accordance with the Concept Site Works Plan drawing no. DA4.01-DA4.02 prepared by Northrop dated 09.09.2012.
- All subsequent development application/s involving construction works must address the requirements detailed in the RMS correspondence ref: STH12/00222 dated 07.12.2012. In addition all road, pavement and carparking design must be in accordance with Council's *Subdivision Design Code* and Austroads Publications.
- j. The flood planning controls applicable to this site are:
- The Flood Planning Level (FPL)(100yr ARI + 900mm Freeboard) for buildings within this site is RL 29.52m AHD
 - The Flood Planning Level (FPL)(100yr ARI + 500mm Freeboard) for roads within this site is RL 29.12m AHD
 - The 100yr Average Re-occurrence Interval (ARI) flood level for this site is RL 28.62m AHD.
- The development shall comply with the following restrictions:
- i. FLOOR LEVELS: All floor levels shall be equal to or greater than the FPL.
 - ii. BUILDING COMPONENTS AND METHOD: All structures to have flood compatible components up to and including the FPL in accordance with Appendix 1 of Shellharbour City Council's *Floodplain Risk Management Development Control Plan*.
 - iii. STRUCTURAL SOUNDNESS & ENGINEERS CERTIFICATE: An engineer's certificate certifying that structures to be built will withstand forces of floodwaters, debris and buoyancy up to and including the FPL.
 - iv. STORAGE OF MATERIALS: External materials to be stored must be above the design floor level to minimise the risk of pollution or be potentially hazardous during PMF flood.
- k. Future development should incorporate ecologically sustainable development principles in its design, construction and ongoing operation phases, including water sensitive urban design measures, water re-use/recycling, energy efficiency, recycling and waste disposal.

REASONS FOR THE IMPOSITION OF CONDITIONS

1. To minimise any possible adverse environmental impacts of the proposed development.
2. To ensure that the amenity and character of the surrounding area is protected.
3. To ensure that the design and siting of the development complies with the provisions of Environmental Planning Instruments and Council's Codes and Policies.
4. To ensure that the development does not conflict with the public interest.

Advisory Notes – General

AN1 Failure to Comply with Consent

Failure to comply with any of the conditions of consent may result in a Penalty Infringement Notice being issued against the owner/applicant/builder. Substantially greater penalties may be imposed by the Court for non compliance

AN2 Lapsing of Development Consent

In accordance with section 95 of the *Environmental Planning & Assessment Act 1979*, the development approval lapses five years after the approval date unless building, engineering or construction work relating to the building has physically commenced.

AN3 Right to Appeal

If you are dissatisfied with this decision, section 97 of the *Environmental Planning & Assessment Act 1979* gives you the right to appeal to the Land & Environment Court within six months after the date on which you receive this notice.

AN4 Review of Determination

If you are dissatisfied with this decision, section 82A of the *Environmental Planning & Assessment Act 1979* provides that you may request Council to review its determination. The request cannot be made after the time limit for making of an appeal under section 97 expires.

AN5 To Vary Development Consent

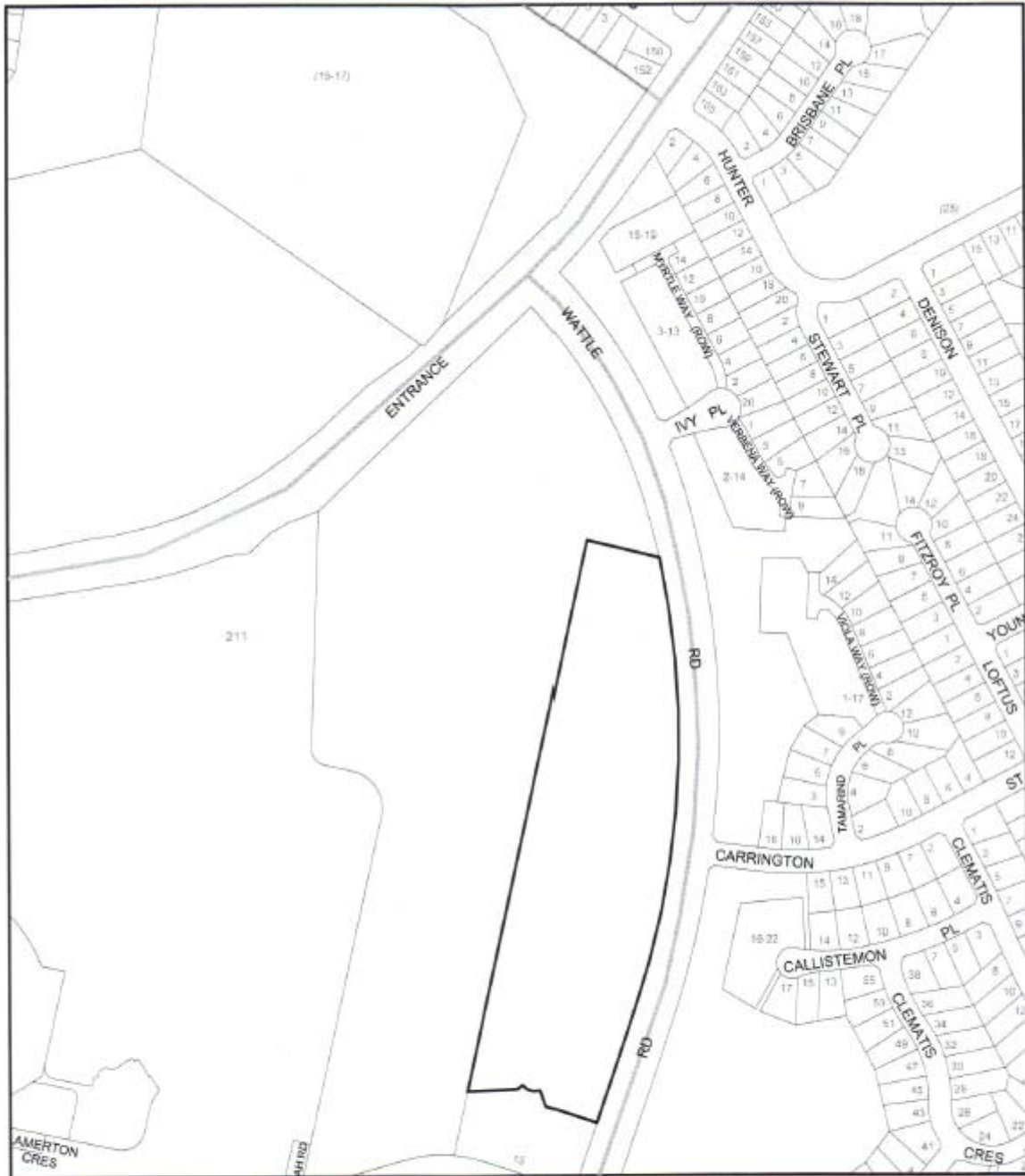
The plans and/or conditions of this consent are binding and may only be varied upon **application** to Council under section 96 of the *Environmental Planning & Assessment Act 1979*. The appropriate fee shall accompany the application and no action shall be taken on the requested variation **unless and until** the **written** authorisation of Council is received by way of an amended consent.

Grant Meredith
Group Manager City Development

On behalf of Michael Willis, General Manager

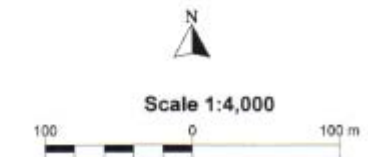
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Attachment 5 - Locality Plan



DA 331/2012

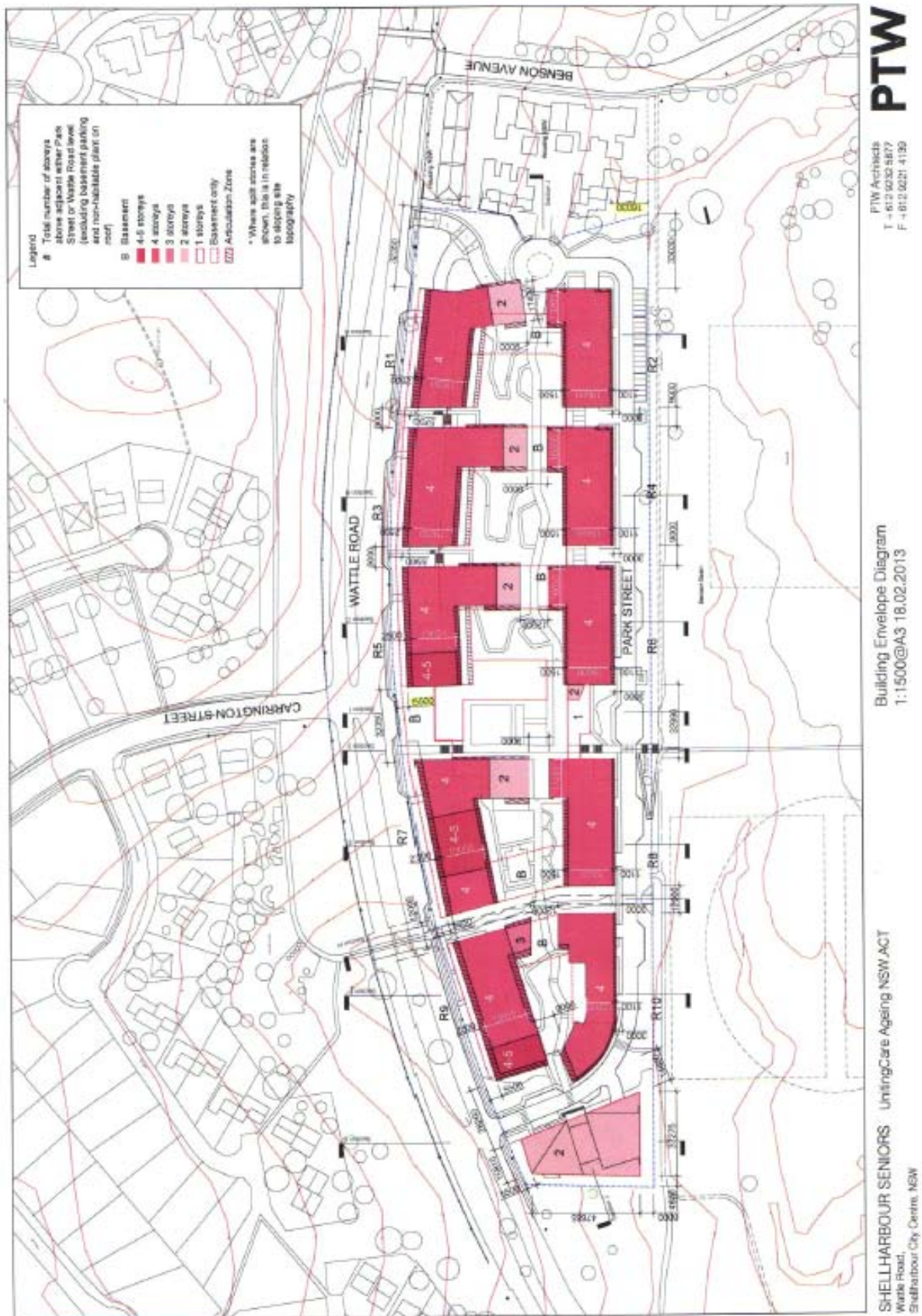
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Attachment 1 – Building Envelope Diagram



Attachment 2 – Section I (through ‘The Common’ area)



Attachment 3 – Level 2 Plan – indicative floor plan and land uses



Attachment 4 – Artists Impression – Aerial view from the north west

