

**JOINT REGIONAL PLANNING PANEL
(Southern)**

JRPP No	2014STH015
DA Number	267/2014
Local Government Area	Shellharbour City Council
Proposed Development	Senior Living Development
Street Address	Lot 4401 DP 857053, 7-23 Wallaroo Drive, Blackbutt
Applicant/Owner	Uniting Care Ageing
Number of Submissions	Nil
Regional Development Criteria (Schedule 4A of the Act)	The capital investment value of proposed development was over \$20 million (CIV \$24,447,646).
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • 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 • Shellharbour Local Environmental Plan 2013 • Shellharbour City Council Development Control Plan • Shellharbour City Council Section 94 Contributions Plan 2013
List all documents submitted with this report for the panel's consideration	<ul style="list-style-type: none"> • Architectural Plans
Recommendation	Approve, subject to modified condition
Report by	Jasmina Micevski Senior Development Assessment Officer

Assessment Report and Recommendation Cover Sheet

Assessment Report and Recommendation

1. PURPOSE OF REPORT

The purpose of this report is to seek a determination from the Joint Regional Planning Panel - Southern (the Panel) of a development application (DA) proposing a senior housing development.

Pursuant to Schedule 4A Development for which regional panels may be authorised to exercise consent authority functions of councils, of the *Environmental Planning and Assessment Act 1979*, the Panel is the determining authority for this DA as the development has a capital investment value of \$24,447,646 which exceeds the threshold of \$20 Million for Council to determine the application.

2. SUMMARY OF RECOMMENDATION

It is recommended that the Panel approve DA No. 267/2014 for a senior housing development at Lot 4401 DP 857053, 7-23 Wallaroo Drive, Blackbutt, subject to conditions.

3. BACKGROUND

The subject site is within the Shellharbour City Centre. The Shellharbour City Master Plan outlines 14 precincts within the centre. The subject land is within 1 of the 14 precinct and is known as precinct N.

The Master Plan advocates that Precinct N be developed for senior living purposes. Uniting Care is the owners of the site and has already constructed a residential aged care facility on the same site. The proposal subject to this DA continues the evolution of the aged care precinct.

4. THE SITE

The subject site is described as Lot 4401 DP 857053, 7-23 Wallaroo Drive, Blackbutt.

The total site area is 2.33 hectares.

The site is bounded by two roads to the north and south and existing developments to the east and west.

Benson Avenue is to the north where the Stockland Shopping Centre is located.

Wallaroo Drive is to the south where low density residential dwellings comprising 1-2 storey detached dwellings and duplexes are located.

To the east of the site is the Elanora residential aged care facility while to the immediate west Lakeview Village is located and occupied by self-contained dwellings as part of the senior living complex. Further west is the Nazareth Catholic Primary School as well as a vacant block of land.

The proposed development plans are attached to this report (Attachment 1).

5. THE PROPOSAL

The application seeks consent for the following:

Four (4) x 4 storey buildings with an overall 8,064.1sqm of gross floor area (GFA), comprising:

- a. 66 self-contained dwellings with a gross floor area of 7,524.1sqm.
- b. a 450.2sqm community centre,
- c. a 89.8sqm club house,
- d. office and administration areas,
- e. landscaping, including the construction of a “village green” and terraced gardens,
- f. vehicular and parking arrangements comprising:
 - i. new driveways and internal circulation, and
 - ii. a maximum of 85 parking spaces including 18 visitor spaces, and
 - iii. stormwater infrastructure works.

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 17 July and 6 August 2014.

No 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*
- *Shellharbour Local Environmental Plan 2013*
- *Shellharbour City Council Development Control Plan*
- *Shellharbour City Council Section 94 Contributions Plan 2013*

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 (Senior Living SEPP)**

The Senior Living SEPP 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 application of this Policy is allowed subject to, among other land uses, dwelling houses and/or residential flat buildings being permissible on the land. The site is zoned R3 Medium Density Residential and both dwellings and residential flat buildings are permissible with consent.

Clause 8 Seniors – This clause defines *seniors* as

- a. *people aged 55 or more years,*
- b. *people who are resident at a facility at which residential care (within the meaning of the Aged Care Act 1997 of the Commonwealth) is provided,*
- c. *people who have been assessed as being eligible to occupy housing for aged persons provided by a social housing provider.*

A restriction as to user is to be registered against the property title limiting the use of the self-contained dwellings to the above occupants. It is a recommended development consent condition that this occurs.

Clause 10 Senior Housing – In accordance with this clause, the proposal will comprise of Self-contained dwellings (SCD). 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.*

Clause 26 Location and access to facilities – This clause requires the development site to be within a prescribed catchment length of various transport nodes and services such as a shopping centre and GP. Following is a summary how the development site complies with the provisions:

- a. The proposed development site is within 400 metres (approximately 90m) from a public transport stop.
- b. The subject site is approximately 250 metres from the Shellharbour Shopping Centre, where a number of essential facilities and services are provided.
- c. The site is approximately 400 metres from a GP office that is located near the intersection of Cygnet Avenue and Moolawang Place.
- d. Further bus connections are available from the Shellharbour Bus Interchange on the north side of Shellharbour Shopping Centre.
- e. In addition, the access report produced as part of the DA recommends that '*appropriate road crossing/kerbing will be required at the bus stop found opposite the development along Wallaroo Drive*'. This requirement has been conditioned.

Clause 27 Bushfire - In accordance with the Bush Fire Prone Land Map, the land is not shown as being bush fire prone land.

Clause 28 Water and sewer – This clause requires the development site to be capable of being serviced with water and sewer. A statement from the applicant has been provided noting the development site has existing capacity to be 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 Neighborhood amenity and streetscape – A detailed discussion on how the development is consistent with this clause is within section 8.1.7 of this report.

Clause 34 Visual and acoustic privacy – The following design principals have been considered/implemented within the development to achieve visual privacy as advocated within this clause:

- a. Location of windows and balconies of the proposed apartments to maximise privacy; living areas have been placed with a minimum 12m separation, usually across a landscaped area.
- b. Installing louvers to partially screen the balconies and doorways leading into the living rooms.
- c. Use of a combination of glass powercoated and face brick work for the balustrade attached to each units principal private open space.

An acoustic report was produced by Day Design Consulting. The report recommends acoustic silencers to be installed on the intake and discharge sides of the car park exhaust fans and supplementary ventilation fan. These requirements form part of the development consent conditions.

Furthermore, specific conditions have been imposed requiring the walls adjoining the bedroom of apartment BC1.02 be acoustically attenuated to ensure any noise from the waste room is minimised.

Clause 35 Solar access and design for climate – The proposed buildings cast minimal shadows on adjoining properties. Building A casts shadow on the neighbouring Lakeview Village building at 9am during the winter solstice; however by 12pm the building casts no shadow on the adjoining Lakeview Village.

Of the 66 apartments, 15 are south, south-west facing resulting in no or minimal sunlight. This represents 23% of the total yield not achieving a northerly orientation. This is a direct result of the site and building orientation.

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 which minimise the disturbance and impacts of stormwater runoff on adjoining properties as advocated within subclause 36(a).

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 incorporated as conditions of consent.

- a. A lighting strategy is to be developed which encourage safety and passive surveillance which addresses 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. Lighting should enable users to identify a face from a distance of 20m to encourage the perception of safety.
- b. Require the 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 – The Statement of Environmental Effects states that:

"the proposed site/paths of travel are no steeper than 1:33 within the site. As the site has gradients greater than 1:10, 50% of all proposed dwellings are required to have wheelchair access via a continuous accessible path of travel to the public pedestrian footpath on adjoining roads. The development has proposed access ramps to the main entry to Buildings A, B+ C and D. The ramps have gradients of 1:14 – 1:20 respectively that will satisfy AS1428.1 and the SEPP.

Pedestrian footpaths have clear widths, suitable for two wheelchair users to pass one another in accordance with AS1428.1:2009, clause 6.4 of the SEPP and the DDA Premises Standards. The footpaths have suitable clearance for a person to turn 180° in accordance with AS1428.1:2009, and clause 6.5 of the SEPP. From these entrances the development has proposed an accessible path of travel to all ILU's via the use of passenger lifts. Detail of the accessible path ways will be viewed during the design stage of the development".

Conditions have been imposed to ensure the Construction Certificate plans provide details of the footpaths to demonstrate compliance with the above.

In addition and as noted above, the access report produced as part of the DA recommends that 'appropriate road crossing/kerbing will be required at the bus stop found opposite the development along Wallaroo Drive'. This requirement has been conditioned and further satisfies this clause.

Clause 39 Waste management – The waste management system has been designed in accordance with the *Better Practice Guide for Waste Management in Multi-Unit Dwellings* guideline. Conditions have been imposed to ensure such strategies are implemented post construction.

Clause 40 Development standards, minimum sizes and building height

- a. Site size - The site has an area of 2.33 hectares which is greater than the SEPP's 1,000sqm minimum requirement.
- b. Site frontage – The site frontage exceeds 20m on both Wallaroo Drive and Benson Avenue.

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 assessment of this part and in particular, Schedule 3 concludes the development is able to comply with the requirements except for Clause 5 – Private Car Accommodation. This clause states:

If car parking (not being car parking for employees) is provided:

- a. car parking spaces must comply with the requirements for parking for persons with a disability set out in AS 2890, and*
- b. 5% of the total number of car parking spaces (or at least one space if there are fewer than 20 spaces) must be designed to enable the width of the spaces to be increased to 3.8 metres, and*
- c. any garage must have a power-operated door, or there must be a power point and an area for motor or control rods to enable a power-operated door to be installed at a later date.*

The non-complaining factor is that all car parking spaces are 2.6m wide.

The applicant states:

Although this clearance is a departure from the SEPP and AS2890.6, the Access Review at Appendix F of the SEE indicates that the space required under AS2890.6 is unreasonable and non-practical within this type of development. Whilst the Access Review recommends the 3.8m wide parking space be provided, Uniting Care Ageing will be managing and allocating all car parking spaces to units and therefore will be able to restrict (through bollards or other mechanisms) car parking spaces if a wider, accessible car parking space is required. A unit specific management response based on the residents needs is considered a suitable outcome, particularly given the exceedance of car parking spaces pursuant to the provisions of Clause 50(h) of the SEPP.

The solution offered above provides flexibility in parking arrangements for all residents. This further provides opportunities and options for the residents in transport choice in the event they require additional room to access their vehicle (an accessible parking space) or conversely a smaller area to park a scooter. This will form part of the parking management strategy and as such conditions recommended that the strategy be developed prior to the Occupation Certificate being issued.

In addition, the management of scooter parking and charging will be addressed within the parking management strategy. The proponent states *in established villages there are approximately 10% of residents that require mobility scooters. Such residents generally do not drive, so there are ample opportunities to manage scooters within the basement parking areas.*

Finally, where the level of detail has not been provided at the DA stage (based on the requirements of Schedule 3), it is acceptable to impose the required development consent conditions to ensure compliance is demonstrated at the Construction Certificate stage.

Clause 45 Development for vertical villages - Pursuant to this clause, development for the purpose of seniors housing involving buildings having a density and scale that exceeds the floor space ratio permitted under another environmental planning instrument a bonus of 0.5 may be added to the gross floor area component of that floor space ratio (FSR).

Application of this clause is justified in the following way:

Clause 45(1) states the following:

This clause applies to land to which this Policy applies (other than the land referred to in clause 4 (9)) on which development for the purposes of residential flat buildings is permitted.

Clause 4(9) relates to land within the Sutherland Shire Local Government Area and therefore not applicable to this development/land.

Residential flat buildings are permitted with consent on the land subject to this DA.

There is no definition of 'vertical villages' and on this basis, along with the site satisfying clause 45(1), the application of this clause is permitted subject to onsite services and affordable places being provided within the development.

On a separate but parallel point, the development exceeds the FSR standard contained within Shellharbour Local Environmental Plan 2013 (LEP 2013). Clause 4.6 of LEP 2013 allows applicants to seek an exception to a standard should the need arise. In this instance, the provisions of the Senior Living SEPP have been utilised given its prevailing status over LEP 2013.

The clause states that the FSR bonus is allowed on condition the development provides the following:

- a. on-site support services (i.e. meals, personal care, home nursing visits and assistance with housework) to be delivered for its residents, and
- b. provide at least 10% of the dwellings for the accommodation of residents in the proposed development will be affordable places, and
- c. the applicant identifies, to the satisfaction of the consent authority, which of the dwellings for the accommodation of residents in the proposed development will be set aside as affordable places.

Under the Shellharbour Local Environmental Plan 2013 (LEP 2013), the FSR standard is 0.7:1. Adding the bonus provided by this clause the allowable FSR equals to 1.2:1. The proposed FSR for the development is .84:1 which equates to a 14% increase in the allowable FSR under the LEP 2013.

Conditions have been imposed to ensure that the above services and affordable housing provisions are to be provided within the development and in perpetuity.

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 storey's)	Does not comply. 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	Does not comply. Refer to the above comments under clause 45 Development for vertical villages.
landscaped area	a minimum of 30% of the area of the site is to be landscaped	Complies. 47% of 4,203.1m ² of the site is proposed as landscaped area or 63.4m ² per dwelling.
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. 26% or 2,350m ² of the site is proposed as deep soil zone.

Standard	Control	Comment
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. 	<p>Does not comply. Seven (7) of the ground floor units do not comply with the requirements. Of the 7, three units have an area less than 15sqm, three units do not achieve the minimum dimensions (3m x 3m) while one unit achieves neither the minimum dimension or area.</p> <p>The non-compliance for units not achieving the required area (15sqm) is not more than .9sqm while the units not achieving the minimum open space dimensions (3m x 3m) have been provided with larger areas in total. For example, the balcony warps around a corner of the building.</p>
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. 	<p>Complies. The proposal provides a total of 85 car parking spaces. A maximum 67 resident spaces are proposed within Building's A, B+C and D which exceeds the rate of 1 space per 5 self-contained dwellings where a social housing provider is the applicant.</p>

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

The SEPP requires Council to be satisfied that the site is suitable for its intended use (in terms of contamination) prior to granting consent.

The Statement of Environmental Effects states the following:

Given the lack of known recent industrial or agricultural activity on the site, it is considered that a Phase 1 Environmental Assessment is not required to support this DA.

It is understood the site is not affected by section 59(2) of the Contaminated Land Management Act 1997, being land which is:

- declared to be an investigation area or remediation site under Part 3 of that Act,
- subject to an investigation order or a remediation order within the meaning of that Act, and
- the subject of a voluntary investigation (or voluntary remediation) proposal the subject of the Environment Protection Authority's agreement under sections 19 or 26 of that Act.

Therefore it is considered that the site is unlikely to be contaminated. In any instance however, precautionary conditions have been imposed which required works to cease and remediation works to be undertaken in the event that unexpected contaminants are found during construction.

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

In broad terms, the aims of the SEPP seek to protect and manage the unique attributes of the NSW coast by encouraging sensitive and appropriate development. The SEPP is a means of implementing the State's *Coastal Policy*.

The site falls within the coastal zone of State Environmental Planning Policy No. 71 however the site does not have direct frontage or access a coastal foreshore.

The proposal can satisfactorily address matters raised in Part 4 (development control). The matters for consideration, pursuant to clause 8 have been considered and the proposal will not compromise the Policy aims as outlined in clause 2.

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

This Policy aims to improve the design quality of residential flat development in New South Wales.

A design verification Statement has been provided by the proponent's architect, Young + Metcalf Architects. The design report produced as part of this statement assesses the "Rule of Thumb" contained within the Residential Flat Design Code. Of the 14 provisions the development does not comply or partially not comply with 3 provisions. A discussion on the non-complying provisions is below:

Provision	Proposal/Applicant comment	Officer Comment
Building Depth An apartment building depth of 10 – 18 metres is appropriate. Developments that propose wider than 18m must demonstrate how satisfactory daylight and natural ventilation are to be achieved.	<i>Building A = 18.4m</i> <i>Building B+C generally = 18.5m</i> <i>Building D = 20.6m</i> <i>Comment:</i> <i>Building D building depth is greater than the rule due to site constraints between link road across site and Elanora RACF at the right hand side of the site.</i> <i>In single aspect dwellings it is intended to provide a fenestration pattern to the façade which fosters airflow, for example, by the judicious placement of casement windows in the same wall, opening in opposite directions to encourage air movement.</i> <i>Additionally, single aspect apartments will have one room extending beyond the main building line, again to encourage cross ventilation air movement.</i>	Given the site constraints as well as the additional provisions of extending one room to achieve compliance, this variation is considered satisfactory.
Visual Privacy a. Up to 4 storeys (12m) 12	<i>Generally buildings are a minimum of 12m apart;</i>	The departure is between buildings A and B. The privacy of the future

metres between habitable rooms/balconies b. 9 metres between habitable /balconies and non-habitable rooms c. 6m between non-habitable rooms	<i>other than one area effecting four apartments only with 11m separation; apartments A3.01/BC3.07 & A4.01/BC4.07</i> <i>This departure from the rule is due to the site constraints between Lakeview and the link road across the site.</i>	occupants are protected by the installation of louvers to partially screen the balconies and doorways leading into the living rooms. Furthermore, the construction of the balustrade which is made up of a combination of 70% glass powercoated AL frame and 30% earth colours face brick work with glass above.
Apartment Layout Single aspect apartments should be limited in depth to 8m from a window The back of the kitchen should be no more than 8m from a window	<i>Can comply, apart from minor variations as below:</i> <i>A2.03, A3.03, A4.03 (8.8m to kitchen rear wall)</i> <i>BC3.06, BC4.06 (9.2m to rear kitchen wall)</i> <i>BC3.08, BC4.08 (8.3m to rear kitchen wall)</i> <i>D3.02, D3.03, D3.04, D3.05, D4.02, D4.03, D4.04,</i> <i>D4.05(8.7m to rear kitchen wall)</i> <i>BC3.04, BC4.04 (8.5m to rear kitchen wall)</i> <i>Minor variations from the rule due to site constraints.</i>	These are considered minor variations. On balance, the layout of each apartment is underpinned by considerations of solar access, visual and acoustic privacy. The minor variations allow these other salient principals to be achieved.

8.1.7 Shellharbour Local Environmental Plan 2013 (LEP 2013)

Clause 2.1 - Permissibility

The proposed development is categorised as 'seniors housing' which is defined as a *building or place that is:*

- a. a residential care facility, or*
- b. a hostel within the meaning of clause 12 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, or*
- c. a group of self-contained dwellings, or*
- d. a combination of any of the buildings or places referred to in paragraphs (a)–(c),*
- e. and that is, or is intended to be, used permanently for:*
- f. seniors or people who have a disability, or*
- g. people who live in the same household with seniors or people who have a disability, or*
- h. staff employed to assist in the administration of the building or place or in the provision of services to persons living in the building or place, but does not include a hospital.*

Senior Housing is permissible with development consent within the land zone R3 Medium Density Residential.

Zone Objectives

The development achieves the objectives of the zone in that it will incorporate a mixture of household types (i.e. two or three bedroom senior living) as well as a type of housing need (i.e. Aged Care Facility) for the community and within a medium density environment.

Clause 4.3 - Height of Buildings

The LEP 2013 provides a building height control of 9m for the subject site.

The four buildings exceed this standard. The following outlines the different height exceedance at the various points:

- a. The height of building A varies from the 9m standard by 0.1m at the north west corner, 0.2m at the north east corner, 1.1m at the south east corner and 1.2m at the south west corner of the building.
- b. The height of building B&C varies from the 9m standard by 4.6m at the north west corner, 4.7m at the north east corner, 1.25m at the south east corner and 0.8m at the south west corner of the building.
- c. The height of building D varies from the 9m standard by 4.6m at the north west corner, 5.8m at the north east corner, 2.6m at the south east corner and 2.1m at the south west corner of the building.

The highest exceedance is located at building D. The height is 5.8m over the allowable 9m limit. This equates to an overall building height of 14.8m.

In accordance with LEP 2013 building height is defined as the *vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.*

A request for an exception to the height standard accompanies the application and is discussed in further detail below.

Clause 4.6 - Exceptions to Development Standards

The applicant provides justification in accordance with sub-clause 3 and 4 of LEP 2013.

1. Clause 4.6.(3)(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case,

The applicant's rationale in seeking an exception to the height standard is based on the accepted "5 part test" established by the NSW Land and Environment Court in *Wehbe v Pittwater Council* [2007] NSWLEC 82 and the principles outlined in *Winten Developments Pty Ltd v North Sydney Council* [2001] NSWLEC 46.

Of particular relevance in this instance that a development standard might be shown as unreasonable or unnecessary if *'the objectives of the standards are achieved notwithstanding non-compliance with the standard'*.

An assessment has been made on the objectives of the standard. They include:

- a. *to ensure the height of buildings complements the streetscape, rural or natural scenic character of the area in which the buildings are located*

The current and future character of the area lends itself to a higher density and building mass akin to a city centre environment. The site acts as an interface between suburban and city centre built forms allowing a level of transition between the two sides.

Adding to this, there are building height standards that surround the site which range between 12m and 18m. Development consent has also been issued on the site for the adjacent residential aged care facility which has a height of 12.8m[^] (to ceiling

height). The following illustration provides a summary of the standards and approvals granted of varying building heights.



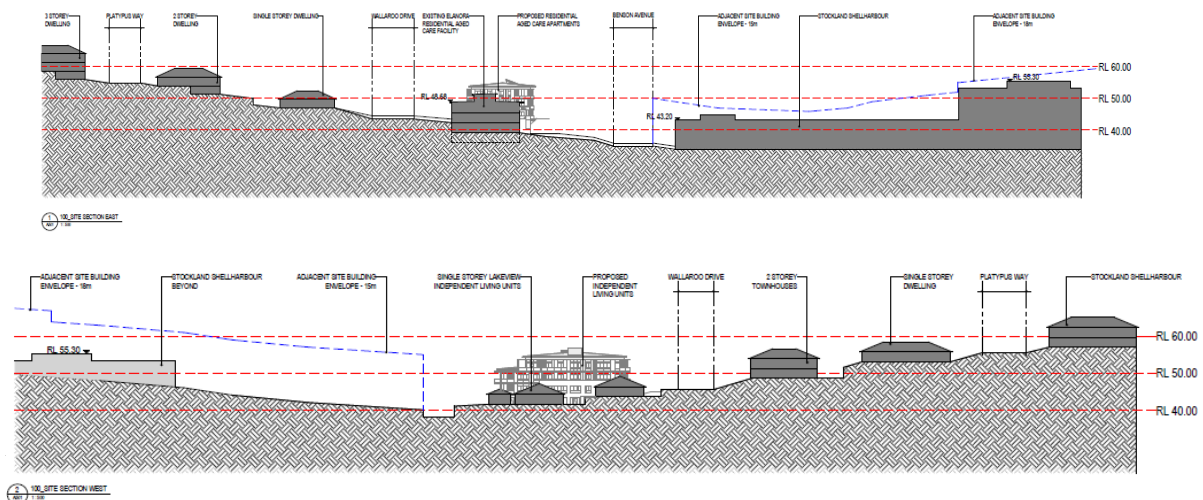
The proposed exceedance at one point is 5.8m over the 9m. Based on the assessment of varying heights within the sites vicinity, the proposed exceedance evidently is consistent with the current and desired character of the area.

Importantly, the development sits between an existing building to the east which has a height of 12.8m and a vacant lot to the west that has a 15m height limit. Adding to this, the vacant lot sits somewhat higher than the subject lot. The highest point of the subject land is approximately RL44 while the adjoining land has a high point of RL48. Therefore, the adjoining site has the potential to have a building height of RL63 while the subject site is proposing RL54. If the building height was to reduce to a compliant height to RL48, such a difference in building height between the two sites could create a break in the built form continuity.

Evidently, should compliance be enforced with the development standard, it is likely to negatively impact on the desired character rather than the proposed building height which is more akin to the objectives of the areas built form.

- b. *to ensure the height of building protects the amenity of neighbouring properties in terms of visual bulk, access to sunlight, privacy and views,*

The site has a steep gradient running from a high point of RL43.25 along Wallaroo Drive residential side) to the lowest point of RL38.20 on Benson Avenue (city centre side). This results in an overall fall of approximately 6.2m.



Therefore, there is a significant difference in levels between the adjoining residences along Wallaroo Drive (which sit on a higher topography than the subject site) and the frontage of the subject site. This fall enables the apartments to appear as 2 and 3 storey buildings along the residential side and as four storey buildings when viewed from the city centre side.

Given the major gradient change and site orientation, impacts of visual bulk, access to sunlight, privacy and views are minimised along the residential side of the development.

Noting the above, the following is noted within the applicants Statement:

Visual bulk

The adjacent buildings to the east and west of the site, namely Lakeview Village and Elanora Aged Care facilities are both of a similar development or land use type of the proposed development in terms of built form. The nearby Stockland Shopping Centre is also of a medium density character. The neighbouring residential dwellings to the south of the site are predominantly low density, however proposed variety of materials and finishes, street boundary landscaping and articulation of the buildings to break up the façades will ensure that amenity of these dwellings is protected.

Access to sunlight

The shadow diagrams....demonstrate that the proposed development does not cast shadows on any surrounding buildings with the exception of Building A casting a shadow over the Lakeview Village at 9am during the winter solstice. However, by 12pm the shadows cast do not overshadow any adjoining buildings. Therefore, the development is not expected to have any unacceptable impacts on the amenity of neighbouring properties.

Privacy

The proposed development has been designed to protect the privacy of existing dwellings in the following ways:

- i. A building separation of at least 12m is provided between habitable rooms and balconies to existing neighbouring properties;*
- ii. A building separation of at least 9m is provided between habitable rooms and balconies and non-habitable rooms to existing neighbouring properties;*
- iii. A building separation of at least 6m is provided between non-habitable rooms to existing neighbouring properties; and*
- iv. The Landscape Plan.....indicates that ample planting will be provided along the southern boundary, providing an adequate level of privacy for the existing residents along Benson Avenue.*

Views

The exceedance in height is not likely to affect any views from the buildings on the opposite side of Benson Avenue which are significantly elevated above the subject site.

- c. to protect areas of scenic or visual importance.*

Given the topography and orientation of the site the exceedance in height will not cause the building to rise above the surrounding development in terms of height and hence will not block the views of existing development nearby.

Based on the assessment of this clause, the contributing factors of land topography, surrounding built form both current and future coupled with minimal impact on surrounding residences, compliance in this instance is unreasonable and unnecessary.

2. Clause 4.6.(4)(a)(i) That there are sufficient environmental planning grounds to justify contravening the development standard.

The applicant has provided the following justification:

- a. The non-compliance with the height control is predominantly caused by the existing topography of the land.*
- b. The overall outcome of the proposal will not result in an outcome dissimilar to the surrounding built form. The proposal has sufficient merit and should not be restricted by this one non-compliance.*
- c. The proposal satisfies the objectives of the height development standard, reflects the topography of the land and will not adversely affect neighbouring properties in terms of visual bulk, access to sunlight, privacy and views.*
- d. The proposal satisfies the objectives of the R3 Medium Density Residential Zone. It provides for the housing needs of the community, provides a variety of housing types and enables other land uses that provide facilities or services to meet the day to day needs of residents.*
- e. The proposal is consistent with majority of the DCP and Seniors Housing SEPP built form controls.*
- f. The proposal provides an appropriate transition between the 1 – 2 storey residential dwellings to the south and the high density nature of the Stockland Shopping Centre to the north.*

The site acts as an important transitional site between the low and medium density nature of the city center. Given the vacant land to the west of the property has height limitations within the LEP at 15m and sits higher than the Uniting Care development. To enforce strict compliance with the 9m will potentially impact on the streetscape as viewed from Benson Avenue and provides no reason that a 9m limitation will provide any benefit to the urban form. These varying building heights along the frontage of Benson Avenue would be in the order of 12.8m of the existing Elanora building, 9m for the subject site and 15m for the adjoining site.

It is considered that the potential for an inconsistent streetscape coupled with the sudden changes in the land topography, as well as the matter of compliance with visual, privacy and amenity provide enough grounds to justify the proposed variation.

Furthermore and of most note, the zone objectives advocates developments of a medium density nature whereby access to services and facilities are readily available. This underlying objective of the land use zone is paramount to the reasons why the contravention is not inconsistent with the planning objectives of the site.

3. Clause 4.6(4)(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

The applicant states that *there is no public benefit in maintaining the numerical height development standard in this instance*. Salient matters relating to protection of amenity to the surrounding residents, consistency with streetscape and its positive contribution to housing supply and provision of jobs, add to the reasons why the development is in the public interest as proposed.

4. Clause 4.6.(4)(b) the concurrence of the Director-General has been obtained.

Shellharbour City Council has the delegations to satisfy this clause.

5. Summary and Conclusion

The proposed height of the building plays an important role in achieving both a transition from low to medium density as well as a consistent streetscape along the interface between the urban and suburban environments.

Planning matters such as site regarding access to sunlight, privacy and views and been considered and concludes that there are no major issue to the development within or external of the site.

Overall the developments contribution to the city center provides strong justification that the non-compliance is unreasonable and unnecessary in this instance.

Based on this, the variation of building height is able to be supported.

Clause 4.4 - Floor Space Ratio

The development relies on the floor space bonus offered within clause 45 Development of Vertical Villages contained within the Senior Living SEPP. Given the SEPP is the prevailing Policy; reference is to be made to section 8.1.2 – Clause 45 Development for Vertical Villages of this report for a discussion on the matter of FSR.

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

There are no draft exhibited EPI's relevant to the subject site.

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

8.3.1 Shellharbour City Council Development Control Plan (DCP)

Chapter 7.22 - Shellharbour City Centre Precinct N

The Shellharbour City Center chapter provides various precincts within the city center and advocates that a Precinct Development Strategy (PDS) should be produced as each site is developed.

The DCP states the PDS is to address existing development on the site and the development potential and design objectives within the DCP for the remaining land. The strategy for each precinct is to relate to the overall principles and objectives of the masterplan.

The PDS was not submitted with the subject development application.

The DCP states:

A block/precinct development strategy should be provided for large sites, blocks or precincts within the City Centre prior to a development application being submitted for approval for any works including subdivision. Large sites include properties greater than 5,000sqm.

Responsibility for the preparation of B/PDS' is by the proponent who will engage appropriately qualified professionals, for example, statutory and strategic land use planner, urban designer, architect, civil engineer, transport planner/engineer.

Approval of and any consequent sought amendment of a B/PDS will be under delegation by Council's development assessment staff in consultation with relevant Council Sections.

There are 14 precincts of which 12 have been developed. Of the 12 precincts, 4 PDS statements have been formally produced. The sites subject to the strategies include the Hub (Council's Administration Building), the Stockland expansion, the Uniting Care development within Precinct M and partially developed for precinct D which consists of a commercial and residential building.

These are major developments which mostly have multiple and dual uses offered to the public within their footprint. For example, the Hub has an administration building, library and commercial space. The development within Precinct M (by Uniting Care) consists of seniors housing, commercial and place of public entertainment.

The PDS within these sites are important to ensure that not only urban design but connectivity, pedestrian movement and public domain, vehicular access and parking arrangements, street types, and building types are considered in the context of the future desired character of Shellharbour City Centre. Conversely, whilst the subject DA plays an important part of the development of the city center, these considerations are guided by the Seniors Living SEPP, SEPP 65 and importantly, operational efficiencies specially relating to a senior living development.

Furthermore, the development has no public domain, commercial or public spaces.

The proponent met with Council and development principals (outside any requirement of the SEPPs) were accordingly established to ensure the development could be managed without a PDS. These principals include but not limited to, considerations of surrounding height and setback and traffic management issues to ensure there is no impact on surrounding local network. These considerations form part of the overall assessment of this planning report.

On this basis and by virtue of clause 2.5 Variation to Development Provisions of the DCP, Council considers that a PDS is not required for the subject site.

Chapter 13 - Parking, Traffic and Transport

This has been discussed within section 8.6.3 of this report.

Chapter 15 - Waste Minimisation and Management

The waste management system has been designed in accordance with the *Better Practice Guide for Waste Management in Multi-Unit Dwellings*. Conditions have been imposed to ensure such strategies are implemented post construction.

Chapter 16 - Access for People with Disabilities

An access report was prepared as part of the DA. The report assess the development against the statutory requirements of the Senior Living SEPP. A number of recommendations have been made and a condition imposed to ensure such requirements are to be complied within the development.

Chapter 17 - Crime Prevention through Environmental Design

The application was referred to Council's Crime Prevention Officer and a number of recommendations were made which form part of the proposed development consent conditions. Refer to section 8.1.2 Clause 37 Crime Prevention, of this report.

Chapter 20 - Landscaping

The landscaping plan was assessed by Councils Landscape Technical Officer and the recommended conditions of development consent have been imposed.

Chapter 23 - Cutting, Filling and Retaining Walls

During the assessment process, the proponent amended the proposal to reduce the length of the retaining wall facing Benson Avenue. Previously, the retaining wall was 66m long and has now has been reduced to 28m. Its purpose was creating a level area for the proposed parking area.

The height of the wall is 1.8m and the intention is to continue the existing stepped wall and will be screened by landscaping.

Chapter 29 - Social Impact Assessment

A Level 2 Social Impact Assessment was submitted with the DA as required by this chapter. A review of the assessment resulted in the following recommendations:

- a. *The proposed independent living units allow for a range of affordable and adaptable housing options for older people of all ages and abilities. This includes being adaptable in design to enable residents to "age in place" as their care needs change over time.*

Comment:

The overall development provides both independent living units as well as a care facility within the same precinct. In general, the unit layout and features are designed to allow ageing-in-place.

- b. *A transport service (such as a shuttle bus) be provided to all residents of the units.*

Comment:

The Statement of Environmental Effects notes the following:

The Uniting Care Ageing model focusses on supporting healthy ageing, not only of the residents in Shellharbour but also of the surrounding ageing population. Uniting Care Ageing operates a number of wellness and outreach programs that support residents and the surrounding aged population. A community bus will therefore be provided to transport the residents to and from services and facilities when necessary. A minibus parking space will be provided on the site adjacent to Building D (refer to Section 3.7).

- c. *The development considers and encourages active transportation through the provision of accessible and sealed footpaths, way finding signage, connectivity between local facilities and scooter parking facilities.*

The development complies with the requirements of the Senior Living SEPP.

- d. *A percentage of the units be available for both low income persons and for older people in a range of financial circumstances.*
- e. *Accommodation be offered specifically to disadvantaged groups requiring cultural and health needs (from a culturally diverse background including Indigenous elders and patients with dementia).*

Comment:

The applicant has agreed to provide a minimum of 10% of its dwellings to cater for the above housing needs. This forms part of the development consent conditions.

- f. *Uniting Care Ageing closely monitor its resident's needs and attempt to provide as much on site care and support as possible.*

Comment:

The Statement of Environmental Effects states:

The services and community facilities that would encourage intergenerational interaction include:

- i. club house,
- ii. terrace area and Village Green,
- iii. meeting rooms and offices,
- iv. wellness Centre,
- v. lockers, change rooms and toilet facilities, and
- vi. kitchenette.

A number of offices and meeting rooms are also proposed which will enable temporary services such as doctors or specialists to visit when necessary.

The above provisions are incorporated within the development proposal.

- g. *Uniting Care Ageing undertake community engagement and continue to work closely with health professionals and local service providers to provide ongoing dialogue and feedback regarding the increased and changing demand for services.*
- h. *Uniting Care Ageing develop partnerships with local schools, child care services, Council's Barrack Heights Community Garden and other community services to encourage intergenerational projects.*

Comment:

Observations made within point (g) and (h) have been imposed as advisory notes within the draft development consent.

Chapter 31- Acoustic Protection for Noise Sensitive Uses

This has been addressed within section 8.1.2 clause 34 visual & acoustic privacy of this report.

8.3.2 Shellharbour City Council Section 94 Contributions Plan 2013

The development is entitled to an exemption of Section 94 Contributions based on the following:

- a. Section 94 Contributions Plan 2013 (7th Review), Section 2.4.3 Exemptions
The applicant meets the requirements for an exemption as they have submitted a written request and provided supporting documentation that the development is being carried out by a social housing provider.
- b. Section 94E Minister Direction
The applicant meets the requirements for an exemption as the development application was made by a social housing provider.

The definition of 'social housing provider' includes a 'community housing provider'. The applicant has provided supporting documentation that they are a 'community housing provider'. Therefore no conditions have been imposed for the purpose of section 94 contributions.

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 *Environmental Planning and Assessment Regulations 2000* prescribe certain development consent conditions that must form part of the development consent conditions.

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

Conditions have been recommended to ensure traffic management procedures and systems are to 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. These procedures and systems are to be produced in accordance with Australian Standard 1742 Manual Uniform Traffic Control Devices.

Furthermore and in specific, conditions have been imposed to require the construction management plan to include the following:

- a. limitations on the location of where vehicles of the construction workers can park. Of most importance, these vehicles must not park along Glider Avenue or along the frontage of the child care center fronting Wallaroo. The purpose of this is to ensure there is no conflict with the school and child care centre drop off and pick up,
- b. any road closing for the purpose of the management of construction must be formally applied to Council by way of lodgment of a public road activity approval,

- c. restriction of the route where construction vehicles are to access the site and to use the most direct route, and
- d. a copy of the plan must be submitted to Council.

8.6.2 Traffic and Parking

The matter of parking has been addressed in section 8.1.2 Clause 50 Standards that cannot be used to refuse development for self-contained dwellings of this report. With respect to traffic impacts the Statement of Environmental Effects states:

"Studies undertaken have found that the proposed development will generate approximately 13 vehicles per hour two-way during peak periods which is equivalent to one vehicle every four to five minutes. Therefore, the report concludes that the proposed development will have low traffic generation and will have no adverse impact on the performance of existing intersections. Further to this, Colston Budd Hunt & Kafes Pty Ltd concludes that the existing intersections will continue to operate at a good level of service."

8.6.3 Drainage

To comply with Council's DCP, surface run off in excess of the 20 Year ARI and up to the 100 Year ARI storm events will be catered for by overland flow paths between the proposed buildings. Due to the steep gradient, flow velocities are likely to be high and as such, it is anticipated that wide flow paths will be required to keep the overland flow within 'safe' parameters to comply with Council's DCP.

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

The matters of traffic, parking, drainage and urban design 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 the Shellharbour City Centre precinct and the interface with the surrounding residential neighborhood.

8.8 (1)(d) Any submissions

The DA was exhibited between 17 July 2014 and 6 August 2014.

No submissions were received.

8.9 (1)(e) The public interest

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

- a. The development provides a housing need and type for the ageing population within the Shellharbour community.
- b. The development will act as an important activation of the evolving Shellharbour City Centre and will add to the existing streetscape.
- 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 single detached housing dwellings on the opposite side of the City Centre and development site.

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. Landscape Technical Officer
- b. Section 94 Planner
- c. Team Leader - Building (City Development)
- d. Traffic Engineer
- e. Development & Subdivision Engineer
- f. Environment Officer
- g. Community Safety Officer
- h. 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*.

No submissions were received during the exhibition stage.

The floor space ratio totals .84:1. Whilst this is over the allowable area contained within LEP 2013 (.70:1), the applicant relies on the floor space ratio bonuses contained within clause 45 of the Senior Living SEPP.

With respect to the building heights, the development standard for the subject site is 9m. The proposed development at its highest point is 14.8m. The assessment concluded that the current development standard is unreasonable and unnecessary given the surrounding heights vary between 12-18 meters.

A Precinct Development Strategy was not lodged part of the DA. It was agreed between Council and the proponent that the strategy is not required given the form and type of development and its positive contribution to the city center and urban streetscape.

The development is not expected to have any detrimental environmental impacts subject to conditions being complied with. In addition, the development is generally compliant with the relevant SEPPs, 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 approved Development Application No. 267/2014 for the construction of Senior Living Housing at Lot 4401, DP 857053, Benson Avenue & Wallaroo Drive, Shellharbour City Centre subject to the draft development consent conditions attached.

Attachment 1 – Location Plans



[illegible]

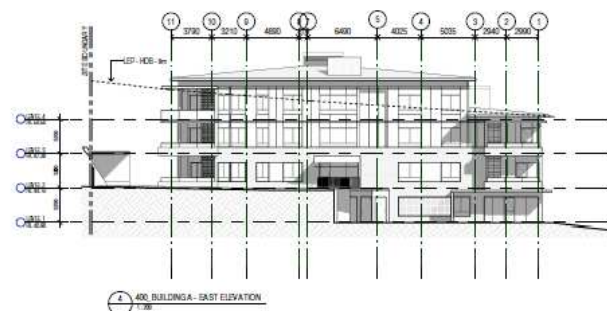
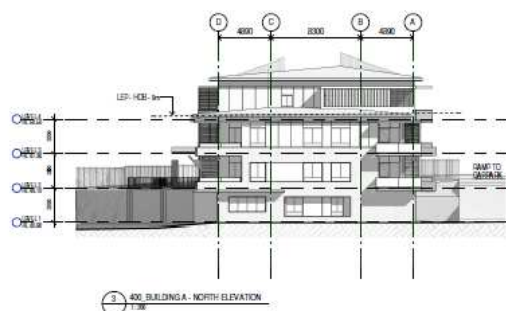
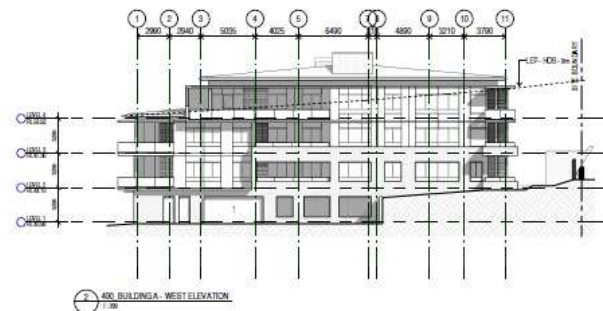
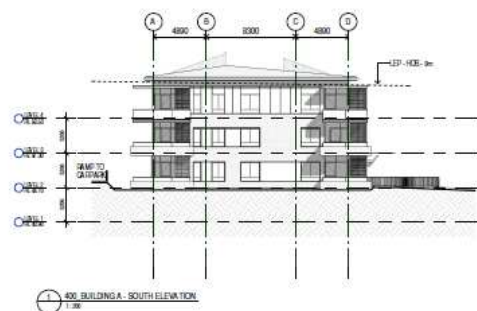
used to estimate the pay offered to employees.

Write all dimensions and formulas and report any discrepancies to the staff architect for the design prior to the construction of the drawing. Drawings are to be in accordance with all other contract documents.

The signed dimensions are to not scale from drawings.

Submittals must contain the guarantee of content and format for copies of drawings issued to the architect.

The completion of the issue (Design/Construct and/or Construct/Design) is a confirmation of the status of the drawing. The drawing shall not be used for construction until the architect has approved the drawing and submitted to the owner.



PRELIMINARY
NOT TO BE USED DURING CONSTRUCTION

10	WILLIAMSON, JY 1930-3	1 0000	NA	NA	07
11	WILLIAMSON, JY 1930-3	0 0000	NA	NA	NA
12	WILLIAMSON, JY 1930-3	0 0000	NA	NA	NA
13	WILLIAMSON, JY 1930-3	0 0000	NA	NA	NA
TOTAL		100	NA	NA	

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UCA SHELLHARBOUR

NOTE

WALLANDS DRIVE, BRELLHABOURN



UNITING CARE AGEING

BUILDING A ELEVATIONS

NAME	DATE RECEIVED
1. 100-104-1	10/10/2014

Project number:	000401
Project title:	Λ 40

302491 A40

dwp sut

young.met

Page

The Corporation of the Lake Umbagog Landowners' Association is a not-for-profit organization that is a continuation of the work of the society. The society shall not be used for construction unless ordered by the Corporation and approved by law.

used or reproduced for any other project or purpose.

Verity, all dimensions and contents in this and every other drawing are to be used only for the design of the construction of the work. Drawings are to be used in conjunction with all other project documents.

The figure dimensions apply. Do not scale these drawings. Use all objects and control graphics for the accuracy of content and format to assist in drawings used electronically.

The completion of the basic design should not affect the entire design. Completion of the design of the system. The drawing shall be used in conjunction with all other project documents and authorized to issue.



400 WALLAROO DRIVE ELEVATION
1:300



2 400 BENSON AVENUE ELEVATION
1:350



3 WALLAROO DRIVE OVERFALL ELEVATION
1.000

Attachment 3 - Recommended Draft Development Consent 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, and
- 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*. The prescribed conditions include but not limited to:

- a. clause 143A Special requirements for construction certificates for residential flat development, and
- b. clause 154A Special requirements for occupation certificates for residential flat development

A3 Development in Accordance with Plans and Documents

The development must be in accordance with the following except as modified by conditions of this consent.

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/Document	Prepared By	Drawing/Document No./Revision	Document Date
BASIX + ABSA COMMITMENTS	Cundall	550990M	23 June 14
SITE PLAN	dwp Suters Young & Metcalf	A102 F	15-Sep-14
BUILDING A LEVEL 1 PLAN	dwp Suters Young & Metcalf	A201 D	16-Jun-14
BUILDING A LEVEL 2 PLAN	dwp Suters Young & Metcalf	A202 D	16-Jun-14
BUILDING A LEVEL 3 PLAN	dwp Suters Young & Metcalf	A203 D	16-Jun-14
BUILDING A LEVEL 4 PLAN	dwp Suters Young & Metcalf	A204 D	16-Jun-14
BUILDING A ROOF PLAN	dwp Suters Young & Metcalf	A205 D	16-Jun-14
BUILDING B&C LEVEL 1 PLAN	dwp Suters Young & Metcalf	A206 D	16-Jun-14
BUILDING B&C LEVEL 2 PLAN	dwp Suters Young & Metcalf	A207 D	16-Jun-14
BUILDING B&C LEVEL 3 PLAN	dwp Suters Young & Metcalf	A208 D	16-Jun-14
BUILDING B&C LEVEL 4 PLAN	dwp Suters Young & Metcalf	A209 D	16-Jun-14

BUILDING B&C ROOF PLAN	dwp Suters Young & Metcalf	A210 D	16-Jun-14
BUILDING D LEVEL 1 PLAN	dwp Suters Young & Metcalf	A211 F	15-Sep-14
BUILDING D LEVEL 2 PLAN	dwp Suters Young & Metcalf	A212 D	16-Jun-14
BUILDING D LEVEL 3 PLAN	dwp Suters Young & Metcalf	A213 D	16-Jun-14
BUILDING D LEVEL 4 PLAN	dwp Suters Young & Metcalf	A214 D	16-Jun-14
BUILDING D ROOF PLAN	dwp Suters Young & Metcalf	A215 D	16-Jun-14
BUILDING A ELEVATIONS	dwp Suters Young & Metcalf	A401 D	16-Jun-14
BUILDING B&C ELEVATIONS	dwp Suters Young & Metcalf	A406 D	16-Jun-14
BUILDING D ELEVATIONS	dwp Suters Young & Metcalf	A411 D	16-Jun-14
SITE ELEVATIONS	dwp Suters Young & Metcalf	A421 D	16-Jun-14
SECTIONS	dwp Suters Young & Metcalf	A501 D	16-Jun-14
SITE SECTIONS	dwp Suters Young & Metcalf	A502 C	15-Sep-14
MATERIALS & FINISHES	dwp Suters Young & Metcalf	A911 C	16-Jun-14
Landscape			
Landscape Report	Taylor Brammer Pty Ltd	NA	05-Jun-14
Landscape Plan	Taylor Brammer Pty Ltd	LC01 P1	10-Apr-14
Landscape Sections	Taylor Brammer Pty Ltd	LC02 P1	10-Apr-14
Statutory Planning			
Statement of Environmental Effects - Precinct N - Wallaroo Drive, Shellharbour	JBA Urban Planning Consultants Pty Ltd	NA	25-Jun-14
Civil & Structural Engineering			
Bulk Earthworks (Sheet 1)	Robert Bird Group	C2-01 B	12-Sep-14
Bulk Earthworks (Sheet 2)	Robert Bird Group	C2-02 B	12-Sep-14
Other			
Environmental Noise Impact	Day Design Pty Ltd	Final	26-May-14
Access Report	Morris-Goding Accessibility Consulting	Final	07-Mar-14

A4 Compliance with Notations on Drawings

Works must comply with any annotations on the approved 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 revised to remove references the plant species *Pennisetum alopecuroides* is not to be used within the proposed landscape. This species is considered an environment weed within the Shellharbour LGA, and
- b. pedestrian footpaths have clear widths, suitable for two wheelchair users to pass one another in accordance with AS1428.1:2009, clause 6.4 of the SEPP and the DDA Premises Standards.

B2 Bond - New Street Tree/s

A deposit of \$2,732 per tree must be lodged with Council prior to the issue of the Construction Certificate to ensure that the street trees are maintained for a six month period following the issue of the Occupation Certificate. A bank guarantee can be lodged with Council where the bond is \$2,000 or more.

B3 Street Tree Inspection Fee

The developer must lodge with Council an inspection fee of \$83.00 in accordance with Council's *Fees and Charges* for:

- street tree inspection prior to occupation of the development, and
- street tree inspection following completion of the maintenance period

prior to the issue of the Construction Certificate.

B4 Protection of Existing Palms (7 x *Livistona australis*)

The existing palms, *Livistona australis*, located on the adjoining public reserve must be enclosed with temporary protective fencing to prevent any activities, storage or the disposal of materials within the fenced area. Details of the design and location of the vegetation protective fencing must be shown on the building plans and must be approved by the accredited certifier prior to the issue of the Construction Certificate. The protective fence must:

- a. be located a minimum of 1.5m from the base of the palms,
- b. have a minimum height of 1.5m, and
- c. be clearly marked at all times with the use of high visibility plastic hazard tape.

Any palm that is damaged or removed during works must be replaced as per Council's specifications.

B5 Geotechnical Report

A 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. level of geotechnical supervision for each part of the works as defined under AS 3798 - *Guidelines on Earthworks for Commercial and Residential Developments*,

- d. an analysis of the level of risk to existing adjacent structures/buildings including the scenario 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 structures/buildings, high risk areas must be identified on a plan and 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 recommended treatment of any unstable areas within privately owned allotments,
- g. requirement for subsurface drainage lines, and
- h. overall assessment of the engineering plans for the proposed development and their suitability in relation to the site's geotechnical characteristics.

B6 Detailed Drainage Design

A detailed drainage design of the site must be submitted and approved prior to the release of the Construction Certificate. The detailed plan must:

- a. be generally in accordance with plan no. C3-01 & C3-02 revision B prepared by Robert Bird Group on 12/09/2014,
- b. drain to Council pit,
- c. 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,
- d. be designed to cater for a 1 in 20 year Average Recurrence Interval storm event,
- e. show that overflow drainage paths are designed to cater for 1 in 100 year Average Recurrence Interval storm event,
- f. comply with Council's *Shellharbour Development Control Plan (Chapter 25 & Appendix 12)* unless variation is specifically noted and approved on DA concept drainage plan, and
- g. be to the satisfaction of the Certifying Authority.

B7 Structural Design of Deep Pits

All pits must be consistent with the following requirements:

- a. pits deeper than 0.9 metres must be designed by a certified structural engineer and be in accordance with *AS3600-2009*,
- b. pits deeper than 1.2 metres must have Galvanised Steel or Stainless Steel step irons (plastic coated black steel step irons will not be accepted),
- c. pits deeper than 1.8 metres are to be reinforced concrete,
- d. all pits must have flush fitting grates. All pits larger than 600mm x 600mm are to be grated galvanised steel grid hinged and be heavy duty type where traffic loading is expected, and
- e. all stormwater drainage to go to pit just within and adjacent to property boundary prior to discharge. This pit shall have a debris screen installed.

Details to this effect must be incorporated on the detailed drainage design that is submitted to the Certifying Authority prior to issue of the Construction Certificate.

B8 Structural Capacity of Stormwater Pipes

Pipes under buildings shall be structurally designed to withstand all applied forces. Pipes with a grade of greater than 12% require anchor blocks at the top and bottom of the inclined section and at a maximum interval of 3 metres. Details to this effect shall be incorporated on the detailed drainage design that is submitted to the certifying authority for the Construction Certificate.

B9 Drainage Easement & Engineer's Details

The walls of any structure adjoining the easement boundary must be designed by a suitably qualified engineer to withstand all forces should the easement be excavated to existing pipe invert level. This may require footings to be designed such that they are set to a minimum 300mm below pipe invert level, or alternatively founded on sound rock. Details must be submitted to the Certifying Authority prior to issue of the Construction Certificate.

B10 Retaining Wall Structural Engineer

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.

B11 Soil and Water Management Plan (SWMP)

Prior to the issue of the Construction Certificate, the applicant must submit to and obtain the Certifying Authority approval of a Soil and Water Management Plan. The SWMP must clearly identify site features, constraints and soil types together with the nature of the proposed land disturbing activities and also specifies the type and location of erosion and sediment control measures. In addition rehabilitation techniques that are necessary to deal with such activities should be referred to.

The SWMP must take into account the requirements of Landcom's publication *Managing Urban Stormwater - Soils and Construction (2004)* thus ensuring the following objectives are achieved, namely:

- a. minimise the area of soils exposed at any one time,
- b. conserve topsoil for reuse on site,
- c. identify and protect proposed stockpile locations,
- d. preserve existing vegetation and identify revegetation techniques and materials,
- e. control surface water flows through the development construction site on a manner that:
 - i. diverts clean run-off around disturbed areas.
 - ii. minimises slope gradient and flow distance within disturbed areas.
 - iii. ensures surface run-off occurs at non-erodible velocities.
 - iv. ensures disturbed areas are promptly rehabilitated.
- f. trap sediment on site to prevent off site damage. Hay bales are not to be used as sediment control devices. To ensure regular monitoring and maintenance of erosion and sediment control measures and rehabilitation works until the site is stabilized (includes landscaping),
- g. specifies measures to control dust generated as a result of construction activities on site,

- h. temporary sediment ponds must be fenced where the batter slope exceeds 1 vertical to 5 horizontal,
- i. design scour protection for the 10 year ARI event at all inlet and outlet structures, and
- j. including measures to prevent the tracking of sediment off the site.

B12 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

B13 Easement Restriction

All transmission line and/or drainage easements must:

- a. have no encroachment from any structure, including footings and eave overhangs (driveways and paved areas are excluded from this condition),
- b. be free of any cut and fill platforms, and
- c. have no loss of support as a result of excavations.

B14 Easements & Engineer's Details

The walls of any structure adjoining the easement boundary must be designed by a suitably qualified engineer to withstand all forces should the easement be excavated to existing pipe invert level. This may require footings to be designed such that they are set to below pipe invert level, or alternatively founded on sound rock. Details to be submitted to the Certifying Authority prior to issue of Construction Certificate.

B15 Footpath

All footpath constructed within the Council road reserve must be a minimum of 1.2m wide concrete footpath. 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. The path must be constructed in accordance with the following requirements:

- a. 25Mpa concrete 100mm thick and steel reinforced,
- b. Connelly key joints are to be used every 3m with the appropriate plastic strip in place on top to ensure a good finish,
- c. an expansion joint is to be placed every 12m and must have the reinforcing pass through it and,
- d. all connections to existing paths and gutters must be dowelled.

B16 Vehicle Entry and Exit from Commercial Property

A B85 vehicle must be able to enter and exit the site in a forward direction without making more than a single 3 point turn as per Shellharbour City Council Development Control Plan.

B17 Retaining Walls

Retaining walls that exceed 600mm in height 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.

B18 Driveway Finishes

The visual impact of the driveway within the property must be minimised by the use of paving materials or coloured concrete. The use of uncoloured concrete as the dominant paving material is unacceptable. Details of these materials and colours are to be submitted to the Certifying Authority for approval prior to issue of the Construction Certificate.

B19 Visitor Parking Materials

The visitor car parking space/s must be clearly defined with paving materials and/or colours that are different to the driveway. Line marking to delineate the visitor car parking spaces is not acceptable. Consideration should be given to using semi-pervious paving materials for visitor parking areas to soften the appearance of these areas and to allow for onsite infiltration of water. Details must be shown on the plans submitted to the Certifying Authority prior to the issue of the Construction Certificate.

B20 Verification of Driveway Grades with Council 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 garage floor level must be submitted with the Construction Certificate and must include:

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

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

B21 Engineer Designed Pavement

The vehicle 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. These details must be submitted with application for a Construction Certificate.

The laybacks and crossings must be designed to accommodate expected traffic loadings. In this regard they must be constructed to a commercial standard with the work carried out by Council or a Council approved contractor at the Developer's expense, including all alteration to public infrastructure where necessary.

B22 Site Facilities - Australia Post

- a. Location points for mail delivery must satisfy the requirements of Australia Post.
- b. Street numbers must be obtained from Council's GIS Department during normal office hours, prior to the issue of a Construction Certificate. The allocated street numbers must be clearly shown on the Construction Certificate drawing.

B23 Impact on Existing Easements

Plans submitted with the Construction Certificate must show all drainage easements:

- a. are free of encroachments from any structure, including footings and eave overhangs (driveways and paved areas are excluded from this condition),
- b. are free of any cut and fill platforms, and
- c. have no loss of support as a result of excavations.

B24 Sight Distances

The driveways must be located and constructed so there is adequate entering sight distances to traffic and pedestrians on the road frontage as per AS2890.1 -2004, Clause 3.2.4. No structure must be constructed or plant grown that obstructs sight distances at the boundary.

B25 Building Access for People with Disabilities

Access for people with disabilities must be provided to and within buildings in accordance with the *Building Code of Australia* and AS 1428. Detailed plans verifying compliance must be provided to the Certifying Authority prior to release of the Construction Certificate

B26 Energy Efficiency Report

An Energy Efficiency **Report** prepared by an architect or other suitably qualified person must be submitted to the 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*.

B27 Shoring and Adequacy of Adjoining Property EP&A Act s80A(11) / EP&A Regulation cl98E

Where the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- a. protect and support the adjoining premises from possible damage from the excavation
- b. where necessary, underpin the adjoining premises to prevent any such damage.

The condition referred to above does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

Details, where relevant, must be submitted to the Certifying Authority prior to the issue of a Construction Certificate.

B28 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.

B29 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.

B30 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*.

Furthermore, the walls adjoining the bedroom of apartment BC1.02 must be acoustically attenuated to ensure any noise from the waste room is minimised.

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

B31 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

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.

B32 Parking Management Strategy

Prior to the issue of the Construction Certificate, the applicant must submit to the certifying authority a Parking Management Strategy. The strategy is to outline how vehicle parking

spaces will be managed equally and equitably throughout the development for standard parking spaces, accessible parking spaces as well as parking spaces for scooters.

PART C - PRIOR TO COMMENCEMENT OF WORKS

C1 Site Meeting

A site meeting with Council's Engineer, the applicant and the contractor must be held not less than 7 days prior to the commencement of work on site.

C2 Erosion & Runoff Controls

Before work starts, appropriate 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.

These controls 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, and
- g. provide adequate control measures to suppress dust.

These measures must be in place prior to commencement of any excavation or construction works.

C3 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 prior to the commencement of work.

C4 Soil and Water Management Plan Implementation (SWMP)

The measures required in the Soil and Water Management Plan approved by the Certifying Authority must be implemented prior to the commencement of works.

C5 Structural Details

The following structural details must be provided to the Certifying Authority prior to commencing work:

- a. structural engineer's design for all reinforced concrete footings and slabs,
- b. structural engineers design for all structural steel beams, framing and connections,
- c. roof truss and bracing details, and
- d. manufacturer's specifications for any patented construction systems.

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.

C6 Protection Fencing for *Livistona australis*

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

C7 Site Management Plan

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

- a. what actions are proposed to ensure safe access to and from the site and what protection will be provided to the road and footpath area from building activities, crossings by heavy equipment, plant and materials delivery and static load from cranes, concrete pumps and the like,
- b. the proposed method of loading and unloading excavation machines, building materials and formwork within the site,
- c. the proposed areas within the site to be used for the storage of excavated material, construction materials and waste containers during the construction period,
- d. how it is proposed to ensure that soil/excavated materials is not transported on wheels or tracks of vehicles or plant and deposited on the roadway, 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.

C8 Open or Occupy a Roadway or Footpath - Section 138 *Roads Act 1993*

For works within the road reserve such as:

- a. opening up a roadway or footpath, e.g. a driveway, or
- b. occupying the public road reserve for any reason (common reasons include to pump concrete, stand mobile cranes, pump stormwater from the site)

a Road Opening Permit under section 138 of the *Roads Act 1993* is required.

An application (copy attached to this consent) must be made to Council for the temporary occupation of the road reserve prior to works commencing.

Please note the application *may* require the following:

- a. detailed engineering drawings of the proposed works in the road and footpath area,
- b. a Traffic Management Plan,
- c. provision of Public Risk Insurance, and
- d. details of timing and length of works.

C9 Public Liability

Prior to the commencement of works, the owner or contractor must provide evidence to Council of a Public Risk Insurance Policy with a minimum cover of \$20M in relation to the

occupation of and works within Council's road reserve, for the full duration of the proposed works. The Policy is to note Council as an interested party.

PART D - DURING CONSTRUCTION WORKS

D1 Hours of Work During Building Work

Noise generating activities, including excavation, construction and delivery of equipment and materials, must only be carried out between:

- 7am to 5pm Mondays to Fridays
- 8am to 1pm Saturdays

unless otherwise agreed to by Council in writing. Work must not be carried out on Sundays or public holidays.

D2 Earthworks Cut, Fill and Grading

The maximum grading of cut or fill shall be 45 degrees (1:1) where there is no retaining wall or no other method of stabilising cut or fill. The depths of cut and fill on any portion of the allotment are to be generally in accordance with the Bulk Earthworks Plans (13235 C2-01 & C2-02). Cut areas may exceed the amount shown on the Bulk Earthworks Plans provided the retained sections are located within the confines of the external walls of the buildings.

D3 Maintenance of Erosion & Runoff Controls

The soil and water management controls must be maintained at all times 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.

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 Maintenance of Soil and Water Management Plan (SWMP)

The soil and water management controls must be maintained at all times during each stage of the development and checked for adequacy daily. The controls must not be removed until the development is completed and the disturbed areas have been stabilised.

Maintenance must include but is not limited to ensuring:

- a. all sediment fences, sediment traps and socks are properly placed and are working effectively and,
- b. drains, gutters and roads are maintained clear of sediment at all times.

Note: It is an offence under the *Protection of the Environment Operations Act 1997* to allow soil or other pollutants to fall or be washed into any waters or be placed where it is likely to fall or be washed into any waters. Substantial penalties may be issued for any offence.

D5 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 to advise what remedial works are required.

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 to ascertain when works can recommence.

D6 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.

D7 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). Any variations to the Waste Management Plan must have prior written approval of Council.

D8 Storage of Materials

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

D9 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**.

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

D10 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.

D11 Cut/Fill

The cut and fill areas must:

- a. be suitably retained,
- b. be in accordance with the approved plans, and
- c. have a maximum grade of 45° (1:1) where there is no retaining wall or no other method of stabilising the cut/fill area.

D12 Retaining Walls

Any retaining walls 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.

D13 Excavation & Drainage Easement

There must be no loss of support of the drainage easement as a result of excavation of the site.

D14 Connection to Council Pit and/or Pipe

Any connection to a Council pit and/or pipe must:

- a. be made at the pipe obvert (pipe only),
- b. be through a hole that is neatly made by cutting or drilling with any reinforcement encountered cut away,
- c. not protrude past the inner surface of the pit and/or pipe,
- d. have all junctions finished with 2:1 cement mortar,
- e. have a minimum pipe size of 150mm in diameter and either sewer grade PVC or concrete, and
- f. when the diameter of the connection is more than 1/3 the diameter of the Council pipe, connection is to be made by construction of a standard pit.

All construction is to be carried out as per Council's Subdivision Code requirements.

The Certifying Authority must arrange for a satisfactory inspection by Shellharbour City Council prior to backfilling. At least one working day's notice is required for the inspection and is to be arranged through Council's Customer Services.

An inspection fee will apply in accordance with Council's *Fees & Charges*.

D15 Redundant Vehicular Layback

All redundant vehicular layback crossing/s must be removed and replaced with kerb and gutter to match existing. 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.

D16 Redundant Driveway - From Kerb to Property Boundary

The redundant vehicular concrete driveway must be removed and the area turfed. The area forward of the front boundary must be kept smooth and even and free from any trip hazards. 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.

D17 Driveway and Layback From Kerb to Property Boundary

A residential standard vehicular concrete driveway and layback must be constructed between the kerb and the property boundary. The driveway must:

- a. maintain a perpendicular alignment from the kerb to the property boundary line,
- b. have a minimum width of 2.7m and a maximum width of 6.0m variable,
- c. not interfere with the existing public utility infrastructure,
- d. be located 500mm clear of all drainage structures and 3m from the street tree,
- e. be finished with a slip resistant coating, and
- f. be constructed by Council, or a Council approved contractor, at the developer's expense, including all alterations of public infrastructure where necessary.

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 an offence to modify or tamper with the assets of a service provider.

D18 Protection Fencing

The vegetation/street tree protection fencing must be maintained intact at all times throughout the period of building work on the site. Machinery, structures, storage/disposal of any building materials and the like, must not be located within the fenced area at any time.

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. 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* must 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 Affordable Places 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 require the development to provide affordable places.

Clause 45(12) of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*, defines *affordable places* as a dwelling for the accommodation of a resident:

- a. *whose gross household income falls within the following ranges of percentages of the median household income for the time being for the Sydney Statistical Division according to the Australian Bureau of Statistics:*

<i>Very low income household</i>	<i>less than 50%</i>
<i>Low income household</i>	<i>50% or more but less than 80%</i>
<i>Moderate income household</i>	<i>80–120%</i>

- b. *who is to pay rent that does not exceed a benchmark of 30% of the resident's actual household income.*

E4 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 of Schedule 3 is to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

E5 Requirement for Parking Management Strategy

Prior to the Occupation Certificate being issued, the operator of the site must produce and submit to the Principal Certifying Authority a Parking Management Strategy. The strategy is to address how the operator will manage the car parking allocation for each unit with a view to the address the changing transport needs to the residents.

The strategy must include the provisions for allocating standard and accessible parking spaces in accordance with *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*. In additions, the strategy must address how the operator will manage spaces for scooters and the associated charging units.

E6 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.

E7 Electricity Supply

Prior to the release of the Occupation Certificate for the development, the relevant electricity provider must provide written advice to the Principal Certifying Authority that all requirements for the supply of electricity to the proposed allotments have been satisfied.

E8 BASIX

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

E9 Works As Executed - Stormwater Drainage

Prior to the issue of an Occupation Certificate, Works As Executed Plans must be submitted the Certifying Authority by a registered surveyor certifying compliance of all drainage works with the approved design plans. The Works As Executed dimensions and levels must be shown in red on a copy of the approved Construction Certificate plans. This plan must verify surface and invert levels on all pits, invert levels and sizes of all pipelines, and finished surface levels on all paved areas. All levels must relate to Australian Height Datum.

E10 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.

E11 Street Trees

Prior to the issue of an Occupation Certificate, 5 trees must be planted along Wallaroo Drive on the Council footpath reserve, as follows:

- a. 5x 25lt-45lt *Fraxinus angustifolia* 'Raywood',
- b. planted at least 3m from the driveway and street light poles and 2m from services, stormwater outlets and signage,
- c. trees must be set back a minimum 900mm from the back of the kerb or midway between the footpath and kerb. Where the tree is less than 900mm from the footpath, root barriers must be installed,
- d. 1m x 1.5m timber edging installed at the base of the tree constructed from the back of the kerb,
- e. two hardwood stakes with 50mm Hessian ties, fixed in a figure 8, to support each tree, and
- f. minimum 75mm depth of organic mulch applied a minimum 600mm diameter surrounding the base of the trunk.

E12 Street Tree Planting Distances

The following recommended clearances are to be taken into account prior to the installation of street trees:

- a. minimum 3m either side of a driveway or vehicular crossing,
- b. minimum 2m from services and signage,
- c. minimum 1.5m from a stormwater outlet/pit, and
- d. minimum 3m from street light posts.

E13 Completion of Landscape Works

Upon the completion of each stage, the unbuilt upon land within that stage, 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.

E14 Street Tree Pre-Occupation Inspection

The street tree/s must be inspected by Council prior to the occupation of the development. It is the responsibility of the developer to notify Council for the street tree inspection.

E15 Landscape Maintenance Period

To ensure establishment of the landscape, the completed landscaping works must be maintained for a 6 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.

E16 Street Tree Maintenance Period

The newly planted street trees will be maintained for a period of 6 months from the date of the issue of the occupation certificate to ensure the health of the tree has not been jeopardised throughout the construction period.

E17 Repairs to Public Infrastructure

Any damage to public infrastructure, other than that previously noted in the Dilapidation Report (refer part C), is the responsibility of the developer. All damage must be repaired and reinstated prior to the issue of the Occupation Certificate. This work must be carried out by Council, or Council approved contractor, at the developer's expense.

E18 Sign for Visitor Parking

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

E19 Energy Efficiency Certificate

An Energy Efficiency Certificate prepared by an architect or other suitably qualified person 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*.

E20 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.

E21 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.

E22 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 Environmental Noise Report prepared by Day Design, dated 26 May 2014.

PART G - AFTER ISSUE OF OCCUPATION CERTIFICATE/DURING OCCUPATION

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 E21
- b. requirement that all graffiti be removed within 48 hours of the offence,
- c. 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, and
- d. the Parking Management Strategy required by **condition B32**.

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.

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*.

G1 BASIX Commitments

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

G2 Street Tree Bond Refund

The street tree bond will be returned following a six month maintenance period commencing from the date of the issue of the Occupation Certificate, provided the street tree/s remain in a satisfactory condition. In the event that any street tree/s are found damaged, dying or removed, Council will have the option to retain the whole or part of the bond. The developer/Certifying Authority must notify Council for a reinspection of the street tree/s.

G3 Allocation of Visitor Parking

The visitor car parking spaces must always be available for visitor parking and must not at any time be allocated, sold or leased to an individual owner/occupier. In this regard, the visitor car parking spaces must form part of the common property in the strata subdivision.