

SUPPLEMENTARY MEMO

Panel Reference	2016STH007
DA Number	DA0012/2016
LGA	Shellharbour City Council
Proposed Development	Retail Component of Shell Cove Boat Harbour Precinct Comprising of Supermarket, Liquor Tenancy, Specialty Stores, Retail Plaza, Carpark & Signage
Street Address	Lot 1279 DP 1175512 The Farm Way, Shell Cove Lot 8032 DP1072187 Boolwarroo Parade, Shell Cove Lot 1597 DP 1194294 Cove Boulevard, Shell Cove.
Applicant/Owner	Australand Corporation (NSW) Pty Ltd / Shellharbour City Council
Recommendation	Approve
Report prepared by	Anthony Randall - Team Leader Planning
Report date	12 December 2016

SUPPLEMENTARY MEMO

1 PURPOSE OF MEMO

This memo is presented to the Joint Regional Planning Panel (JRPP) for determination of a development application (DA) for construction of a retail component of Shell Cove Commercial Precinct comprising of Supermarket, Liquor Tenancy, Specialty Stores, Retail Plaza, Carpark & Signage. The proposal is on land is legally described as Lot 1279 DP 1175512 The Farm Way, Lot 8032 DP1072187 Boolwarroo Parade, and Lot 1597 DP 1194294 Cove Boulevard, Shell Cove.

2 SUMMARY OF RECOMMENDATION

It is recommended that the JRPP grant approval to DA No. 12/2016 subject to the schedule of conditions contained within Attachment 1 of this memo, to construct a Supermarket, Liquor Tenancy, Specialty Shops, Retail Mall, Carpark & Signage at Lot 1279 DP 1175512 The Farm Way, Lot 8032 DP1072187 Boolwarroo Parade, and Lot 1597 DP 1194294 Cove Boulevard, Shell Cove.

3 BACKGROUND

3.1 Applicant Representations

Frasers have reviewed the draft conditions attached to the Council report on the Planning Panel website and request the following modifications:

3.1.1 Condition 3 Development in Accordance with Plans and Documents

Can the following references be updated to reflect the latest versions issued to Council.

Civil Plans	Henry & Hymas	15297_DA_C101 Rev 10 [issued to Council via email 4/11/16]	29/07/2016
Stormwater and Water Cycle Management Plan	Worley Parsons		24/02/16 [issued with RFI response via email to Victoria Nicholson dated 22/4/16]

Assessment Officer Comment:

The Civil Plans recommended for approval are Dwg No. 15297_DA_C101 Rev 6. The Dwg No. 15297_DA_C101 Rev 10 was submitted late in the process on 4 /11/2016 and were not reassessed by Council engineers and included in the approved documents. The issue will be resolved in the Construction Certificate process.

The Stormwater and Water Cycle Management Plan dates has been updated accordingly.

3.1.2 Condition 5b

Henry and Hymas have reviewed the potential flood implications of the raised pedestrian crossing thresholds and note the following:

“During a PMF flood, the northern crossing (closest to Road 10) is a point where the PMF enters the site. Providing a raised crossing here would in affect be providing a blockage to the PMF overland flow path. This would force the PMF flow up over the crossing possibly directing the flow down the mall toward the specialties and supermarket. This could also force the water to back up more onto road 10 impacting on the specialties fronting road 10.

The PMF overland flowpath is designated to drain in a southerly direction towards MC01. Constructing a raised crossing near MC01 would also be acting as a blockage for the PMF flood thus increasing the PMF level at the floodgate into the basement. This southern end of

the private road is also the emergency spill point for the localised flows in case of blockage. Constructing a raised crossing would be blocking of the emergency spill point.

I short we believe that both crossings should remain as at grade crossings."

Can you please amend Condition 5b to include a statement allowing the provision of an alternative traffic calming solution to allow the flood waters to drain as modelled.

Assessment Officer Comment:

Not Agreed.

The applicant agrees that if the flood affection of the site was not a constraint then agreement to this condition would not be an issue.

It is considered that the day to day operations of the car park and associated traffic safety measures are of higher weight than planning for the Probable Maximum Flood.

3.1.3 Condition 5c and Condition 5d

Frasers request that both conditions are amended to delete the following sentence:

"Council is the authority permitted to alter, modify, or remove the restriction".

The Council report indicates that both conditions are informed by the following Council Recommendations:

At the Ordinary Council meeting of 15 March 2016, the following Recommendations to Council from the Committee of the Whole Council (Confidential) were read to the Meeting by the General Manager.

Item 4.1 Sale of Shell Cove Retail Land Stage 1 to Australand

COMMITTEE RECOMMENDATION:

- a) That Council sells the Retail Stage 1 Land on the terms set out in the Heads of Agreement included in Attachment 1 of this Report.
- b) That the General Manager be delegated authority to negotiate the final terms of the Heads of Agreement and the formal Option Documents,
- c) That the Mayor and the General Manager, or his nominated delegate, be authorised to execute any document required to give effect to resolution 1.
- d) That the Heads of Agreement and formal option documentation specify that the car park be available for full public use and that the necessary legal instruments be used to permanently protect this right.

The Property and Recreation manager has recommended the following condition be imposed in accordance with Point 4 of the 'Committee Recommendation':

"Prior to the issue of an Occupation Certificate for the development, the Proponent must provide documentary evidence to the Principal Certifying Authority of the registration of a positive covenant on the title of so much of the land to be used for carparking which has Shellharbour City Council as the benefiting authority and which obliges the owner of the land from time to time to ensure that those parts of the land subject to the covenant are available for use as a car park by the public."

The Section 88b instrument is the necessary legal instrument to protect Council's rights and there is no additional requirement to insert *"Council is the authority permitted to alter, modify, or remove the restriction"* as part of either condition. We note that it wasn't included in the draft condition recommended by the property and recreation manager.

Assessment Officer Comment:

Not Agreed. All restrictions placed on title by the consent authority are only able to be modified, altered or removed by the that authority.

3.1.4 Condition 5p

This condition does not relate to the scope of this DA and we strongly believe should be removed from the consent. The condition provides:

- p. Road 12 located north of Road 10 must be designed to cater for a 12.5 single unit vehicle turning between both roads without crossing the centreline.

This condition relates to the road network that forms part of the scope of the separate DA 143/2016 and should accordingly be addressed with this DA. This development application was lodged with Council on 28th April 2016 and to date we are yet to receive any formal comment or question from Council in its regard. The context of 5(p) above should be raised with the proponent as part of the formal comment on DA143/2016.

We note that aside from our belief that the condition is incorrectly applied to DA 12/2016, we have concerns that the condition will impact on our ability to create an appropriate pedestrian friendly urban town centre and result in inappropriate and expansive intersections. The requirement in this proposed condition is considerably more onerous than Council's standard condition that has to date been applied within our past development consents.

Accordingly, I request Council's review of this condition and that Council make an appropriate request to the JRPP to delete this condition. We will be happy to discuss and address any concern Council has in relation the design of roads on a holistic basis within the separate DA143/2016 when we receive Council's comments on this DA

Assessment Officer Comment:

Agreed. The proposed bus stop location is considered to raise a number of traffic safety issues particularly at peak times. The condition was imposed to provide an alternative solution so that if the bus company declines to service the site from the car park, another bus stop could be installed in Road 12 and continue to service the town centre. This issue will be considered further with DA143/2016 for a 6 lot subdivision in Precinct D.

4 RECOMMENDATION

Pursuant to Section 80 of the Environmental Planning and Assessment Act, 1979 the following is recommended:

- a. That the Southern Region Joint Regional Planning Panel grant consent to Development Application No. 12/2016 to construct a supermarket, liquor tenancy, and nine retail shops (including a kiosk), at Lot 1279 DP 1175512 The Farm Way, Lot 8032 DP1072187 Boolwarroo Parade, and Lot 1597 DP 1194294 Cove Boulevard, Shell Cove subject to the conditions of consent in Attachment 1 of this Supplementary Memo.

ATTACHMENT 1 - Schedule of Conditions

PART A – ADMINISTRATIVE CONDITIONS

1. 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.

2. Prescribed Conditions

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

3. Development in Accordance with Plans and Documents

The development must be in accordance with the approved Development Application plans as endorsed by Council's stamp except as modified by conditions of this consent.

Name of Plan/Document	Prepared By	Drawing/Document No./Revision	Date
Architectural Drawings	HDR Rice Daubney	12009 DA 01 to DA 03 Rev A	18/12/2016
Revised Site Analysis	HDR Rice Daubney	12009 DA 04 Rev B	3/11/2016
Revised Drawings	HDR Rice Daubney	12009 DA 05 Rev C	3/11/2016
Revised Parking, Basement, Ground Plans	HDR Rice Daubney	12009 DA 06, DA07, DA08 Rev E	3/11/2016
Revised Roof Plan	HDR Rice Daubney	12009 DA 09 Rev B	3/11/2016
Revised elevations	HDR Rice Daubney	12009 DA 10, 11 Rev B	3/8/2016
Revised elevations	HDR Rice Daubney	12009 DA 12	20/6/2016
Architectural Statement	HDR Rice Daubney		undated
Statement of Environmental Effect	JBA Urban Planning Consultants		Dec 2015
Flood Gate Plans	Worley Parsons	2013-ARP/SK1 2013-ARP/SK5	07/09/2012
Basement Evacuation Route Plan	HDR Rice Daubney	Basement Evacuation Route Plan	
Basement Evacuation Route Plan – Flood Gate	Worley Parsons	Flood Gate SK01 - Evacuation Route Plan	
Civil Plans	Henry & Hymas	15297_DA_C101 Rev6 15297_DA_C102 Rev 8 15297_DA_C103 Rev4 15297_DA_C115 Rev 1 15297_DA_C116 Rev 2	29/07/2016
Landscape Plans	GSA	ROAD SECTIONS - MAIN STREET & HARBOUR BOULEVARDE	21/10/2016 17/11/2016

Name of Plan/Document	Prepared By	Drawing/Document No./Revision	Date
		L-0D-2300-D L-01-2100-G L-01-2300-G L-01-3100-B L-01-6100-G	
Civil Design Statement	Henry & Hymas		30/9/2016
Flood Assessment	Worley Parsons	Letter	28/10/2016
Stormwater and Water Cycle Management Plan	Worley Parsons		8 July 2016 24/02/16
BCA Report	McKenzie Group	Rev 04	29.06.16
Disability Access Review	McKenzie Group		30/11/2015
Noise Assessment of Supermarket	Wilkinson Murray		April 2016
Crime Prevention Through Environmental Design Report	JBA Urban Planning Consultants		Dec 2015
Waste Management Plan	Wasteless Consulting		30/11/2015
Targeted Site Investigation	Douglas Partners		Feb2016
Services Infrastructure Report	ADP Consulting Pty Ltd		2/12/2015
Pedestrian Network Plan	HDR Rice Daubney		15/4/2016

4. Land Use - Operation as Liquor Shop

The operation of the tenancy No. 10 as a packaged liquor shop must at all times comply with the definition of *retail shop* as defined in *Shellharbour Local Environmental Plan 2013*, but does not include a *pub, hotel or food and drink premises*.

PART B - PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

5. Amendments to Approved Plans

The amendments described below must be incorporated into the development and must be shown on the plans prepared for the purpose of obtaining a Construction Certificate:

- a. The approved use of tenancy No. 10 is for packaged liquor sales. Unless otherwise stipulated within the Packaged Liquor Licence which must be issued by NSW Liquor and Gaming prior to commencement of the use of the premises, the hours of operation of the tenancy are:
 - 7am to 10pm Monday to Saturday; and
 - 10am to 10pm Sunday.
- b. The two pedestrian crossings traversing the private road burdened by the right of way must be installed on raised thresholds and comply with RMS specifications for raised thresholds.

Details demonstrating compliance with this condition are to be prepared by a suitable qualified engineer and to be submitted to the Principal Certifying Authority for approval prior to the lodgement of any Construction Certificate with the Principal Certifying Authority.

- c. Prior to the issue of an Occupation Certificate for the development, the Proponent must provide documentary evidence to the Principal Certifying Authority of the registration of a positive covenant on the title of so much of the land to be used for car parking which has Shellharbour City Council as the benefiting authority and which obliges the owner of the land from time to time to ensure that those parts of the land subject to the covenant are available for use as a car park by the public. Council is the authority permitted to alter, modify, or remove the restriction.
- d. The development must include security measures. These can include the use of security personnel, lighting, CCTV, fencing, alarms and the like or a combination thereof. Full details concerning security arrangements for the site must be provided on plan and/or written submission with the Construction Certificate application.
- e. As far as practicable, graffiti resistant surfaces and paint must be used. Details of such surfaces and paint are to be shown on plan or included in building specifications and are to be submitted with the Construction Certificate application.
- f. All landscaping must be designed to avoid creating concealment opportunities. In this regard, trees must have a growth habitat that allows visibility in and around the trunk to a minimum height of 2m at maturity. Details are to be shown on the Landscape Plan and submitted with the Construction Certificate application.
- g. *Pyrostegia venusta* is an environmental weed within the Shellharbour LGA in this regard omit the use of the plant species *Pyrostegia venusta* and replace with the plant species *Parthenocissus tricuspidata* 'Veitchii' or *Trachelospermum jasminoides*.
- h. Street tree planting and landscaping in the road reserve of Harbour Boulevard, and Road MC01 as shown on the approved landscape plans is to be planted and shown on the construction drawing.
- i. Landscape planting and landscape works, described on the plans as *Planted Temporary Landscape, Entry Wall and Signage, Grove of Cook Pines* located on the corner of Harbour Boulevard and Road 10 as shown on the approved landscape plans is to be shown on the construction drawings and planted prior to the issue of any Occupation Certificate and maintained by the person acting on this consent until such time as the site is further developed with buildings fronting the road network.
- j. The signage over the loading dock entries shall be reduced to be not more than 0.6m high by 3.6 metres long with a maximum area of not more 2.5m².
- k. All signage approved by this consent shall be installed in accordance with the requirements of the State Environmental Planning Policy (Exempt and Comply Codes) 2008
- l. The proposed slanted timber batter screen structure shrouding the basement entry ramp shown on Dwg No. DA 12 Rev B by Rice Daubney dated 20.6.2016 shall be modified to be constructed of stainless steel cable or other visually permeable material selection for a length of not less than 12 metres from the pedestrian crossing nearest the access to Road MC01 back towards the basement entry ramp to ensure the line of sight between pedestrians and drivers is not obscured in a way that presents a traffic safety hazard. Details of the design are to be submitted to the Principal Certifying Authority for approval prior to the issue of any Construction Certificate by the Principal Certifying Authority.
- m. A section of public road extending at least 7m south from the prolongation of the boundary of Road 10 must be dedicated to Council. This is to include the carriageway and 3m wide section of footpath on each side of the road.
- n. A section of public road extending 10m north from of the prolongation of the boundary of Road MC01 must be dedicated to Council. This is to include the carriageway and 3m wide section of footpath on each side of the road.

- o. A right of way must be registered over the private road which provide access to the public between Road 10 and Road MC01. Council is the authority permitted to alter, modify, or remove the restriction.
- ~~p. Road 12 located north of Road 10 must be designed to cater for a 12.5 single unit vehicle turning between both roads without crossing the centreline.~~
- q. The two pedestrian crossings across the private road burdened by the right of way must be installed on raised thresholds and comply with RMS specifications for raised thresholds.

6. Section 94 Contributions

A contribution of \$1,817.42, subject to annual indexation, must be paid to Council towards the provision of community infrastructure and services prior to the issue of the Construction Certificate. This amount has been calculated in accordance with Shellharbour City Council's *Section 94 Contributions Plan 2013* dated 18 December 2013.

The contribution amount contained in this condition is the base rate indexed to the date the consent is issued. The contribution amount will be adjusted in accordance with the indexation methods detailed in the *Contributions Plan*. Current indexed rates are available from Council.

The *Contributions Plan* may be inspected or a copy purchased at the Customer Service Counter at Council's offices, or downloaded from www.shellharbour.nsw.gov.au

7. 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.

8. Street Tree Inspection Fee

The developer must lodge with Council an inspection fee of \$89 in accordance with Council's *Fees and Charges* for:

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

prior to the issue of the Construction Certificate.

9. Landscape Inspection Fee (condition if Council is PCA)

The developer must lodge with Council an inspection fee of \$89 in accordance with Council's *Fees and Charges* for:

- landscape inspection prior to occupation of the development
- landscape inspection following completion of the maintenance period

prior to the issue of the Construction Certificate.

10. Landscape Plan

Prior to the final inspection by the Principal Certifying Authority, the unbuilt upon land with the exception of the paving, must be landscaped and planted with turf, trees and shrubs. In this regard, two copies of a landscape plan prepared by a Landscape Architect must be submitted to the Accredited Certifier or Council prior to the release of the Construction Certificate. The landscape plan must be prepared in accordance with the concept landscape package prepared by Group GSA and dated 2/6/2015 and with Council's Landscape DCP available from Customer Service or Council's website.

11. Utilities - Sydney Water

The approved plans must be submitted to a Sydney Water Tap in™ to determine whether the development will affect Sydney Water wastewater and water mains, stormwater drains and/or easements, and if any requirements need to be met. The new Tap in™ online self-service replaces QuickCheck agents as of 30 November 2015.

Please refer to the web site www.sydneywater.com.au for:

- Sydney Water Tap in™ www.sydneywater.com.au/SA/plumbing-building-developing/building/sydney-water-tap-in/index.htm and
- Guidelines for Building Over/Adjacent to Sydney Water assets - see Building & Developing then Building & Renovating

or telephone 13 20 92.

The Certifier must ensure that Sydney Water Tap in™ has issued appropriate electronic approval.

12. 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.
- J. including measures to prevent the tracking of sediment off the site.

13. 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.

All 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.

14. Initial 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,
- h. overall assessment of the engineering plans for the proposed development and their suitability in relation to the site's geotechnical characteristics.

15. Flooding Commercial Development

The Probable Maximum Flood (PMF) Level for this site is RL 6.3 m AHD

The development shall comply with the following restrictions:

- a. **BUILDING COMPONENTS AND METHOD:** All structures and components within the basement car park to have flood compatible components in accordance with Appendix 9 of Shellharbour City Councils Development Control Plan,
- b. **STRUCTURAL SOUNDNESS & ENGINEERS CERTIFICATE:** An engineer's certificate certifying that structures are designed to withstand forces of floodwaters, debris and buoyancy up to and including the PMF is to be submitted with the Construction Certificate Application and,
- c. **STORAGE OF MATERIALS:** There shall be NO external storage of materials below the design floor level which may cause pollution or be potentially hazardous during PMF flood.

16. Open Car Parking

Vehicles must not cause a nuisance in the PMF event by being caught in flood waters and becoming moving objects. In this regard, vehicle bollards or similar method of containment are required in areas where the flood velocity and depth exceeds vehicle stability limits. Details of vehicle containment methods are to be certified by a professional engineer with experience hydraulic engineering and provided on plan to the satisfaction of the PCA.

17. Flood Wall Design

A detailed structural design of the proposed flood wall on the Northern, Western and Southern boundary of the proposed car park is to be provided to the satisfaction of the PCA. The flood wall must also to be certified by the hydraulic engineers Worley Parsons for its suitability in deflecting flood water as intended in the document titled "Shell Cove The development Roads DA Flood Assessment" by Worley Parsons dated 27th October 2016. The flood wall is to be generally designed in accordance with the concept design approved on plan No. 13294 L-0D-2300-D, L-01-2100-G, L-01-2300-G, L-01-3100-B and L-01-6100-G.

18. 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. 15297_DA_C101 revision 5 Sheets 1-2 prepared by Henry & Hymas on October 2015,
- b. drain to the council pits on road MC01,
- c. indicate the method of disposal of all stormwater and must include rainwater tanks, existing ground levels, finished surface levels on all paved areas, estimated flow rates, invert levels and sizes of all pipelines,
- d. be to the satisfaction of the Certifying Authority,
- e. be designed to cater for a 1 in 20 year Average Recurrence Interval storm event,
- f. overflow drainage paths are to be provided and be designed to cater for 1 in 100 year Average Recurrence Interval storm event,
- g. comply with Council's *Shellharbour Development Control Plan (Chapter 25 & Appendix 12)* unless variation is specifically noted and approved on DA concept drainage plan.

19. Pit Grates

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.

20. Engineer Designed Pavement

All car parking areas, manoeuvring areas and the access aisle must be paved, drained and marked. The pavement must be designed by a qualified civil engineer and certified to be satisfactory for the expected traffic loadings from a development of this size and type. *AUSTROADS Guide to Pavement Technology* can be used as the design guideline for the pavement design.

The laybacks and crossings must be designed to accommodate expected traffic loadings. In this regard they must be constructed to an commercial/industrial 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.

21. 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.

PART C - PRIOR TO COMMENCEMENT OF WORKS

22. Site Contamination

An unexpected finds protocol for contamination must be prepared and submitted to the Principal Certifying Authority prior to the commencement of works.

23. 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.

24. 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. The report must be supported with suitable photographic records. This information must be submitted to Council prior to the commencement of work.

25. 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.

26. Protection Fencing

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

27. 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. sediment and erosion control measures as per Landcom's publication "Managing Urban Stormwater - Soils and Construction (2004)" also known as the 'Blue Book' or subsequent revisions

- e. how it is proposed to ensure that soil/excavated materials are not transported on wheels or tracks of vehicles or plant and deposited on the roadway
- f. 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 appropriately qualified and experienced engineer

28. Section 138 Roads Act 1993

For works within the road reserve, the requirements of the Section 138 of the *Roads Act 1993* apply. In this regard:

- If a driveway is proposed, a Driveway Application must be made, or
- If any other works are proposed and/or occupation of the road reserve proposed, a Road Opening Application must be made.

This application must be made prior to any works commencing within the road reserve and an application fee in accordance with Council's *Fees and Charges* will apply.

29. 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

30. Site Documentation

A full set of approved documents (Development Consent, Construction Certificate Drawings and associated documentation) must be maintained on site for the duration of the construction works.

31. Survey Certification

A SURVEY CERTIFICATE, signed by a Registered Surveyor, shall be SUBMITTED FOR APPROVAL to the Principal Certifying Authority when the formwork for the main floor area and basement entry ramp is completed. This certificate shall certify that any main floor area and basement entry will be constructed at the designed level.

32. Retaining Wall on Boundary

All 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.

33. 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 during construction. The maximum depth of fill on any portion of the allotment shall be 1.0 metres. The maximum depth of cut on any portion of the allotment shall be 1.0 metres. Cut areas may exceed 1.0 metre provided the retained sections are located within the confines of the external walls of the buildings.

34. 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*.

35. Open or Occupy a Roadway or Footpath (Section 138 Roads Act 1993)

Prior to any physical works within Council's road reserve such as (but not limited to) installing a driveway or connecting stormwater facilities you will need to apply for approval under Section 138 of the *Roads Act*. There is no additional cost as this is paid for at the time of development application.

To lodge your application you will need to submit the following information:

- a. detailed engineering drawings of the proposed works in the road and footpath area,
- b. traffic management plan,
- c. provision of public risk insurance and,
- d. details of timing and length of works.

36. Traffic Committee - Signposting and Line Marking Plan

Prior to the implementation of the Signposting and Line Marking Plan, the Plan must be lodged with the City of Shellharbour Traffic Committee for written approval. This plan must detail all facilities, signage and line-marking required within and surrounding the development.

37. Storage of Materials

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

38. Hours of Work During Building Work

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

- 7am to 5pm Mondays to Fridays
- 7am to 3pm Saturdays

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

public holidays

39. 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.

40. Waste Management

The management of waste must comply with the approved Waste Management Plan. Any variations to the Waste Management Plan must have prior written approval of Council.

41. 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.

42. Approved External Materials & Colours

The external treatment/appearance of the development must be in accordance with the approved Finishes Palette.

PART E - PRIOR TO OCCUPATION

43. 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 the Occupation Certificate. The building must not be used until the Principal Certifying Authority issues an Occupation Certificate.

44. Occupation

Occupation of the proposed development must not occur until all conditions in Parts A, C, D & E of this consent and the conditions relevant to the construction Main Street and associated intersections in Development Application No. 143/2016 have been satisfied unless otherwise agreed with Council writing. The Principal Certifying Authority must issue a certificate verifying that all conditions have been satisfied.

45. Development Completion

All conditions of consent must be complied with prior to the building being occupied.

46. Flood Risk Signage

Signage is to be provided in the basement carpark to warn people that the site may be subject to flooding and to follow the designated evacuation routes from the basement car park including vehicle exit ramp, fire stairs and travelator.

47. Flood Gate Operation and Maintenance Manual

An operation and maintenance manual for the proposed Flood Gate at the basement entry ramp is to be provided and kept onsite at all times. The operation and maintenance manual is to be written by the manufacturer and must detail a schedule of maintenance and periodic testing to be carried out on the Flood Gate over time.

48. Services & 88B Instrument

Lots affected by new or existing utility services must be burdened with easements and restrictions on the use of land to the satisfaction of the Principal Certifying Authority and the relevant utility provider.

49. 88B Instrument

Prior to the issue of an Occupation Certificate for the development, the Proponent must provide documentary evidence to the Principal Certifying Authority of the registration of a positive covenant on the title of so much of the land to be used for car parking which has Shellharbour City Council as the benefiting authority and which obliges the owner of the land from time to time to ensure that those parts of the land subject to the covenant are available for use as a car park by the public.

Council is the authority permitted to alter, modify, or remove the restriction.

50. Vehicular Access

Prior to the issue of any Occupation Certificate by the Principal Certifying Authority the Main Street (Road 10), Road 11, Road 12, and Road MC01 as shown in Construction Certificate No. 11.2013.411.3, and must be constructed.

51. 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.

52. 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.

53. Works As Executed - Stormwater Drainage

Prior to the issue of an Occupation Certificate, Works As Executed Plans must be submitted to 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.

54. Completion of Landscape Works

The unbuilt upon land, with the exception of the paving, must be landscaped in accordance with the approved landscape plan prior to the issue of an Occupation Certificate. Landscape or turf areas must not be reduced or replaced with hard impermeable surfaces. Any variations to the design or species used must be authorised by Council in writing before any changes are made.

A report from a suitably qualified person must be provided to the Principal Certifying Authority on completion of the landscape works certifying that the landscape is in accordance with the approved Landscape Plan.

55. 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.

PART F - PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

Nil

PART G - AFTER ISSUE OF OCCUPATION CERTIFICATE/DURING OCCUPATION

56. Signalised Intersection Works

Prior to the issue of an occupation certificate, the traffic signals at the intersection of Shellharbour Road, Wattle Street and Harbour Boulevard must be completed to RMS satisfaction.

57. Storage & Display

Goods or signs must not be stored or displayed outside the confines of the premises or within the car parking, landscaping or manoeuvring areas.

A-frame board signs located outside the premises are not permitted.

58. No Work Outside Building

Work, other than the loading or unloading of goods associated with the business, must not be carried out outside the confines of the building.

59. Hours of Operation

Hours of operation (including loading and unloading of goods) must be confined to the working hours:

- Retail Centre Hours (including Supermarket): 24 hours 7 days a week; and
- Loading Dock Hours: 7am to 10pm 7 days a week.

60. Operational Noise

The use of the premises must not cause offensive noise, as defined in the *Protection of the Environment Operations Act 1997*.

61. Operational Waste Management

Adequate receptacles must be used to store all landfill and recyclable waste streams pending disposal. Such receptacle must be regularly emptied and no waste must be allowed to lie or accumulate on the premises other than in the receptacle. Provision must be made for the separation and recycling of waste.

62. Location of Waste Receptacles

The landfill and recyclable waste bins must be stored in the waste storage area/s located in accordance with the approved plan. At no time shall the bins be located within the car parking, landscaping or manoeuvring areas.

63. Signage on Glazing

A maximum of 20% of the glass area of the shop may be covered by or occupied by signage. Signage on glazing includes paint, vinyl strips and the like.

64. Illegal signs

No bunting, inflatable or flashing signage or lights are permitted.

65. Signage Envelopes

Separate consent is not required where signage is restricted to the signage envelope/s as shown on the approved plans. Signage must be wholly contained within the approved signage envelope/s, unless otherwise approved in writing by Council.

66. Signage Illumination

The approved signs must only be illuminated during the approved hours of operation, unless otherwise approved in writing by Council.

The intensity of illumination of the signage must not cause objectionable glare, affect the safety for motorists or detract from the amenity of the neighbourhood.

PART H – OTHER APPROVALS

67. Controlled Activity Approval

Prior to the issue of any Construction Certificate a copy of a controlled activity approval under the Water Management Act 2000 is to be obtained from the NSW Office of Water must be submitted to the Principal Certifying Authority.

REASONS FOR THE IMPOSITION OF CONDITIONS

1. To minimise any possible adverse environmental impacts of the proposed development.
2. To ensure that the amenity and character of the surrounding area is protected.

3. To ensure that the design and siting of the development complies with the provisions of Environmental Planning Instruments and Council's Codes and Policies.
4. To ensure that the development does not conflict with the public interest.

END OF RECOMMENDED CONDITIONS

