

JOINT REGIONAL PLANNING PANEL

(Southern Region)

THIRD SUPPLEMENTARY MEMO

Panel Reference	2016STH010
DA Number	DA0029/2016
LGA	Shellharbour City Council
Proposed Development	Shop Top Housing Development (Five Storeys High) - 157 Residential Apartments, Commercial Tenancies and Two Lot Subdivision (Staged Development)
Street Address	Lot 4212 DP 809265 Benson Avenue SHELLHARBOUR CITY CENTRE
Applicant/Owner	ADM Architects
Recommendation	Approve
Report by	Anthony Randall – Team Leader Planning
Report date	22 November 2016

1 Background

The Development Application No. 29/2016 was reported to the Joint Regional Planning Panel (JRPP) on 9 November 2016.

A supplementary memo was provided to the JRPP on 17 November 2016 to address amendments made by the applicant to the proposed adaptable housing arrangements, and to correct errors and omissions in the recommended schedule of conditions provided at Attachment 1 to the report.

This second supplementary memo is provided to the JRPP to:

- correct an inconsequential error in the calculation of the Floor Space Ratio on page 9 and 41 of the report dated 9 November 2016, and
- correct an error in recommended Condition 16 relating to car parking in Attachment 1 of the report dated 9 November 2016; and
- revise the recommended streetscape and landscape conditions to improve the appearance of the development.

The third supplementary memo is to provide advice on the applicant's suggested changes to conditions of consent No. 10a and 31

The applicant suggests Condition 10a be revised as follows:

~~...Omit the turf areas adjacent to the access road and replace with pavement other than in the garden beds within which the new access road streets trees are to be planted....~~

Omit the use of the tree species *Podocarpus elatus* as a street tree and replace with *Livistona australis* or *Pyrus usseriensis*. ~~unless written agreement to another species selection is obtained from Council.~~

The applicant suggests Condition 31 be revised as follows:

~~A deposit of \$10000 \$28990.00 (10 trees x \$2899) 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 deposit of \$14,495.00 (5 trees x \$2899) must be lodged with Council prior to the issue of the Construction Certificate for Stage 1 to ensure that the street trees are maintained for a six month period following the issue of the Occupation Certificate for that Stage.

A further deposit of \$14,495.00 (5 trees x \$2899) must be lodged with Council prior to the issue of the Construction Certificate for Stage 2 to ensure that the street trees are

maintained for a six month period following the issue of the Occupation Certificate for that Stage.

Should the six month maintenance period for Stage 1 have expired prior to issue of Construction Certificate for Stage 2 the bond for Stage 1 is to be held in satisfaction of the requirement for the further bond on Stage 2.”

Council staff raise not objection to the applicants revised conditions which are provided at Attachment 1 to this thirsd supplementary memo.

2 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 the consent to Development Application No. 29/2016 to construct a shop-top housing development up to five storeys including 157 residential apartments, four commercial tenancies and two lot subdivision (Staged Development) on the land described Lot 4212 DP 809265 Benson Avenue, Shellharbour City Centre subject to the conditions of consent in Attachment 1 to Second Supplementary memo dated 22 November 2016.

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, demolition or use is commenced, the person having the benefit of the development consent must:

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

Note: For Torrens Title Subdivision, the appointed Principal Certifying Authority must be Shellharbour City Council.

2. Prescribed Conditions

This development consent is subject to the prescribed conditions made under the *Environmental Planning & Assessment Regulation 2000*. The prescribed conditions include compliance with the *Building Code of Australia*.

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 Plans Pre and Post Adaptation Plan Shadow Analysis Colour and Materials Schedule	ADM Architects Project	Dwg Nos. A00 – A29 Rev A Dwg Nos. A00 Rev A Dwg Nos. A01 Rev B Dwg Nos. A02 - A08 Rev A Dwg Nos. A09 Rev C Dwg Nos. A10 – 18 Rev B Dwg Nos. A19 – 25 Rev A	January 2016 January 2016 8 August 2016 20 October 2016 8 August 2016 January 2016
Intersection Design Concept Plan	AZTEC Draft and Design	Dwg No. T 085-B - C01 SHT 1 – BENSON AVE SHELLHARBOUR PROPOSED VEHICLE ENTRY TRAFFIC LIGHTS 12.0M PAVEMENT	21/09/2016
Letter of Offer Dated 11/8/2016	NPA Development Pty Ltd		11/8/2016
SEPP65 Assessment	ADM Architects		
Plan of Subdivision	Masters and Associates	Reference W15010	22.12.15
Landscape Plan	Captivate	reference 15-1039/1 and 2	20.1.16
Water Cycle Management Plan	Jones Nicholson	Reference CRPT-20151123.01A	21.12.15

Name of Plan/Document	Prepared By	Drawing/Document No./Revision	Date
Water Cycle Management Plan	Jones Nicholson	Reference 20151123	21.12.15
Civil Design Plans	Jones Nicholson	reference 151123 Sheets C00P1- C07P1	20.1.16
Hydraulic Assessment	Jones Nicholson	Reference CLTR-20151123.01A	23.12.15
Statement of Compliance Access for People with a Disability	Accessible Building Solutions	Job No. 215413	21.12.15
Carparking & Traffic Impact Assessment	Aztec Design	T-085	January 2016
BASIX Certificate	Greenview Consulting		

4. Planning Agreement - Intersection Upgrading

Prior to the lodgement of any Construction Certificate application with the Principal Certifying Authority, the proponent must prepare and execute, at their cost, a Planning Agreement with Shellharbour City Council in accordance with:

1. The Letter of Offer Dated 11/8/2016 from NPA Development Pty Ltd to enter in to a Planning Agreement to undertake design and construction of traffic lights at the intersection of Benson Ave and Lamerton Crescent, Shellharbour City Centre; and
2. Council Resolution in relation to Item 10.2.2 from the Ordinary Council meeting of 30/8/2016; and
3. The Intersection Design Concept Plan prepared by AZTEC Draft and Design dated September 2016 Dwg No. T 085-B - C01 SHT 1 – BENSON AVE SHELLHARBOUR PROPOSED VEHICLE ENTRY TRAFFIC LIGHTS 12.0M PAVEMENT

The Planning Agreement must be prepared to reasonably address the design and construction of the intersection incorporating the following:

1. Preparation of detailed design plans by a suitably qualified engineer in accordance with Austroads and to the satisfaction of the RMS Traffic Committee and Council's Infrastructure Services Section
2. Any kerb and gutter, stormwater drainage, full road width pavement, traffic facilities (roundabouts, median islands etc.) and paved footpaths to be constructed shall be designed in consultation with the relevant requirements of Shellharbour Council and the Roads and Maritime Services (RMS) and AS1742. Final road design plans shall be prepared by a qualified practicing Civil Engineer and submitted to the Certifying Authority prior to the issue of a Construction Certificate.
3. All costs associated with the construction of any new road works including kerb and gutter, road pavement, drainage system and footway shall be borne by the developer. The new road works must be designed and constructed in accordance with the City's "Development Specification for Civil Works Design and Construction".
4. Apply for and obtain a Section 138 Approval under the Roads Act
5. Construction of the Works to Council's satisfaction prior to the issue of any Occupation ~~Certified~~ Certificate
6. Preparation and submission of Works as Executed Plans to the satisfaction of the Council and RMS
7. Mechanism to reimburse the proponent funds collected by Council under Section 94 Plan for the works to the satisfaction of Council.

The cost of complying with this condition is to be borne by the person entitled to act on this consent.

5. Staging of Development

The development approved by this consent is to be constructed and subdivided in stages as follows:

- a. Stage 0 - Subdivision of Lot 4212 DP 809265 into Lot 1 and 2
- b. Stage 1 - Construction of a 64 Units each on proposed Lot 1
- c. Stage 2 - Construction of a 93 Units each on Lot 2

All conditions of this consent apply to each stage, unless otherwise specified.

Each stage must not be occupied or used until the Principal Certifying Authority issues an Occupation Certificate for that stage.

6. Utility Services

The developer must meet the full costs to adjust/repair/relocate any affected utility services. The developer must make the necessary arrangements with the service authorities.

7. Site Waste Minimisation and Management Plan

The Site Waste Minimisation and Management Plan submitted must be adhered to throughout all stages of the construction process. Source separation of materials and maximum reuse and recycling of materials are requirements of Shellharbour City Council's Waste Minimisation and Management DCP.

8. Records of Disposal

All records demonstrating the lawful disposal of construction waste and recycling must be retained and kept readily available for inspection by regulatory authorities such as Council, Department of Environment and Heritage or WorkCover NSW.

9. Development Consent Required for Use/Occupation

~~Occupation or use of the building/s is NOT permitted by the granting of this consent. Separate development consent must be obtained from Council for the initial use of each commercial tenancy unit.~~

Occupation or use of the building/s is NOT permitted by the granting of this consent. Separate development consent must be obtained from Council for the initial use of each commercial tenancy unit, unless the use falls within the requirements of State Environmental Planning Policy (Exempt & Complying Development Code) 2008.

PART B - PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

10. 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. Dense screen landscaping must be planted and maintained between the building and the existing primary school common property boundary.

The landscaping shall include species that will on maturity reasonably obscure a direct line of sight into the adjoining property from apartments within the development. Species selection must comply with the requirements of the Shellharbour Development Control Plan 2013.

The proposed landscape surrounding the proposed development along the eastern, southern and the western boundary is required to be a formal landscape design. The use of deciduous and or evergreen trees, shrubs, groundcovers that are shade tolerant species is required. A pedestrian access way must be provided for landscape maintenance.

~~Omit the turf areas adjacent to the access road and replace with pavement other than in the garden beds within which the new access road streets trees are to be planted.~~

Proposed landscape under the awning on the eastern dwelling along the access road and Benson Avenue must have irrigation.

Omit the use of the tree species *Podocarpus elatus* as a street tree and replace with *Livistona australis* or *Pyrus usseriensis*. **unless written agreement to another species selection is obtained from Council.**

Omit the use of the compacted granite within the communal area.

Show all specifications of planter boxes, drainage, timber screens, seating and timber decks on the landscape plan.

The landscape plan must be prepared in accordance with Council's Landscape DCP available from Customer Service or Council's website.

Details of plant species that satisfy the above requirements must be provided to the Council for approval prior to the lodgement of any Construction Certificate with the Principal Certifying Authority.

Prior to the final inspection by the Principal Certifying Authority (PCA), the unbuilt upon land with the exception of the paving, must be landscaped and planted with turf, trees and shrubs.

Two copies of a detailed landscape plan and landscape elevations prepared by a **Landscape Architect** must be submitted to the Accredited Certifier or Council prior to the release of the Construction Certificate.

The landscaping must be planted prior to the issue of any Occupation Certification by the PCA.

- b. In accordance with Chapter 18 of the Shellharbour Development Control Plan a public art strategy for the development must be prepared in consultation with Council's cultural developments staff, and must be consistent with any Council Public Art Policy/Strategy.

The public art strategy must include two external wall mounted pieces, each with minimum dimensions of 6m x 4m or 24m² area. They must be located on the West Elevation of Block A and the East Elevation of Block B, and be visible from the public road approved by this consent.

The art strategy is to be submitted to Council prior to the lodgement of any Construction Certificate, and must be approved by Council prior to the issue of any construction certificate by the Principal Certifying Authority. The public art strategy must form part of the Construction Certificate documents.

The public art must be installed prior to the issue of any Occupation Certificate ~~in Stage 2~~ for each respective building.

- c. A minimum of 30 adaptable dwelling units must be provided. These dwellings must be designed and constructed to complying with AS 4299-1995 "Adaptable Housing" to the satisfaction of the Principal Certifying Authority.
- d. The proposed blockwork balustrade for the Block B and C pedestrian path in front of the commercial tenancies No. 1 and 3, other than in locations where it forms an integral part of a proposed retaining structure, are to be made of the same visually permeable design material as proposed on the residential unit balconies.

11. Section 94 Contributions – Stage 1

A contribution of \$600,417.74, 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 for Stage 1. This amount has been calculated in accordance with Shellharbour City Council's *Section 94 Contributions Plan 2013* dated 18 December 2013 in the following manner:

- Precinct 3 Residential contribution - \$598,583.54
- Commercial Contribution - \$1,834.20

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

12. Section 94 Contributions – Stage 2

A contribution of \$869,816.70, 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 for Stage 2. 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

13. Long Service Levy

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

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

14. SEPP No. 65 - Design Quality Of Residential Flat Development

In accordance with clause 143A of the *Environmental Planning & Assessment Regulation 2000*, a Certifying Authority must not issue a Construction Certificate for residential flat development unless the Principal Certifying Authority has received a design verification from a qualified designer, being a statement in which the qualified designer verifies that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out in Part 2 of *State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development*.

15. Crime Prevention Through Environmental Design

- a. The development must include security measures. These shall include the use of, signage, 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.
- b. Graffiti resistant surfaces and paint must be used at the ground level of the development. 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 to the satisfaction of the PCA.
- c. 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. Details are to be shown on the Landscape Plan and submitted with the Construction Certificate application.
- d. Man-proof security gates are to be installed on each of the loading docks at the alignment of the corner of the building to ensure that these spaces are not available for anti-social behavior as crime prevention initiative. Details are to be submitted with the Construction Certificate application to the satisfaction of the PCA.

16. Vehicle Parking Spaces - Number & Allocation

Onsite parking spaces must be provided, as a minimum, as follows:

- a. 218 residential parking spaces
- b. 83 78 employee/customer parking spaces
- c. 31 visitor parking spaces

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

Note: Future uses of the building/site may require additional car parking. The number of car parking spaces for the development may not be adequate for some uses of the building/site.

Note: Where strata subdivision is proposed, the open car parking spaces allocated to each dwelling must be shown on the final strata subdivision plans.

17. Car Parking Spaces – Dimensions

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

18. Bike Parking Spaces - Number & Allocation

Onsite bike parking spaces must be provided, as a minimum, as follows:

- a. 97 bicycle parking spaces
- b. 22 motor cycle parking spaces

19. Acoustic Attenuation

Prior to the issue of the Construction Certificate, an Noise Impact Assessment Report is to be prepared by a suitably qualified person, including recommendations, and submitted to the satisfaction of the Principal Certifying Authority for approval.

The dwellings must be designed and constructed to ensure that the following LAeq levels are not exceeded:

- a. in any bedroom in the building - 35 dB(A) at any time between 10.00pm and 7.00am, and
- b. anywhere else in the building (other than a garage, kitchen, bathroom or hallway) - 40 dB(A) at any time.

The above design and construction requirements must be detailed on the Construction Certificate drawings and/or specifications accompanying the construction drawings and approved by the Certifying Authority prior to the release of the Construction Certificate.

20. 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.

21. 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.

22. 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.

23. 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.

24. 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 Jones Nicholson Consulting Engineers Stormwater Study Letter CLTR-20121123.01A dated 2015,
- b. drain to the 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 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,
- h. include the rainwater tank, dimensions and point of discharge of overflow from the rainwater tank and details of any pump required to provide water to the toilets, clothes washer and/or any other fixture identified in the BASIX certificate.

25. 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.

26. Structural Design of Deep Pits

All pits deeper than 0.9 metres must be designed by a certified structural engineer and be in accordance with *AS3600-2009*.

Pits deeper than 1.2 metres must have **galvanised steel step irons (plastic coated black steel step irons will not be accepted)** and pits deeper than 1.8 metres are to be reinforced concrete. Step irons at 300mm interval spacing from bottom of pit. Top step minimum 500mm below top surface level.

Details to this effect shall be incorporated on the detailed drainage design that is submitted to the certifying authority for the Construction Certificate.

27. Access – Waste Management

Access driveways to be used by collection vehicles must be of sufficient strength to support waste collection vehicles.

The site must allow for the manoeuvring and height requirements of the waste collection vehicles accordance with AS 2890.2-2002 Parking Facilities – Off Street Commercial Vehicle Facilities.

All turning points shall exhibit "No parking" signs to ensure safety requirements. Typical waste collection vehicle dimensions are provided below.

28. 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 a Council approved contractor at the Developer's expense, including all alteration to public infrastructure where necessary.

29. Footpath

A footpath for the full width between the building alignment and the back of the kerb and gutter must be constructed along the road frontage of Benson Avenue adjacent to the site.

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
- e. allowing for tree planting in accordance with the approved landscape plan.

30. Garbage Storage Room

The applicant must supply a garbage storage room to be identified on the construction plans and shall be fully enclosed and be provided with a concrete floor, with concrete or cement rendered walls coved to the floor. The floor shall be graded to an approved sewer connection incorporating a sump and galvanised grate cover or basket. A hose cock shall be provided within the room. Garbage rooms shall be vented to the external air by natural or artificial means.

The waste/recycling storage area or room/s have been sized to meet the waste and recycling needs of all future tenants and designed so that the size and layout is capable of accommodating reasonable future changes in use of the development.

31. Bond - New Street Trees

~~A deposit of \$10000 \$28990.00 (10 trees x \$2899) 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 deposit of \$14,495.00 (5 trees x \$2899) must be lodged with Council prior to the issue of the Construction Certificate for Stage 1 to ensure that the street trees are maintained for a six month period following the issue of the Occupation Certificate for that Stage.

A further deposit of \$14,495.00 (5 trees x \$2899) must be lodged with Council prior to the issue of the Construction Certificate for Stage 2 to ensure that the street trees are maintained for a six month period following the issue of the Occupation Certificate for that Stage.

Should the six month maintenance period for Stage 1 have expired prior to issue of Construction Certificate for Stage 2 the bond for Stage 1 is to be held in satisfaction of the requirement for the further bond on Stage 2."

32. Street Tree Inspection Fee

The developer must lodge with Council an inspection fee of \$89.00 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.

32. Screen Landscaping

~~Dense screen landscaping must be planted between the southern building facade of Block B and D and the southern property boundary with the school sufficient to obscure the view between the balconies and school site. The landscaping shall include species that will on maturity obscure a direct line of sight into the adjoining property.~~

~~Details of plant species that satisfy the above requirements must be provided to the Certifying Authority prior to the issue of a Construction Certificate.~~

33. 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.

34. Air-Conditioner/Mechanical Ventilation Installation

No approval is given or implied to the installation of any external mechanical ventilation and/or air-conditioning systems that are visible from public roads, public places or adjoining properties.

External ventilation systems must be screened or enclosed with materials that complement the building and comply with schedule of material and colours approved by this consent.

A plan showing compliance with this condition must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Where screening/enclosure cannot be achieved, separate development consent must be obtained prior to the installation of any such units.

35. 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.

36. Engineer Design Pavement

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

37. Pavement Grade

All paved areas must have a minimum grade of 1%.

38. Site Facilities - Clothes Drying Lines

Clothes hoists or clothes lines must be screened to a minimum height of 1.8m from the street and adjoining public places (in accordance with the approved plans/to the satisfaction of the Accredited Certifier. Clothes drying facilities must not be provide on any balcony of the development.

Details must be submitted with the Construction Certificate for this proposal.

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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:

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or telephone 13 20 92.

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

40. Electricity Substation & Visual Impact

Any substation installed must be screened from all street frontages and public places by the use of screen enclosures and landscaping. Screening measures must not compromise the requirements of the electricity supplier. Details must be submitted with the Construction Certificate Application.

PART C - PRIOR TO COMMENCEMENT OF WORKS

41. 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.

42. 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 engineer's design for all structural steel beams, framing and connections
- c. roof truss and bracing details
- d. manufacturer's specifications for any patented construction systems.

43. 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 and,

- 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.

44. 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

45. 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 setting out of the basement levels, and again prior to covering the roof, certifying that the height of the building is in accordance with the approved plans.

46. Access Denied via Public Reserve

Vehicular access to the development site via the adjoining public reserve is NOT permitted at any time during construction/demolition/excavation works.

The existing palms and vegetation adjacent to the eastern boundary of the site on the adjoining reserve must be protected with the installation of temporary protective fencing on the boundary to prevent any activities, storage or the disposal of materials within the reserve.

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 tree/vegetation
- b. have a minimum height of 1.5m
- c. be clearly marked at all times with the use of high visibility plastic hazard tape.

47. Storage of Materials

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

48. 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
- ~~8am to 1pm Saturdays~~
- 7am to 2pm Saturdays

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

49. 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.

50. 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.

51. Retaining Walls

Any retaining walls must be located wholly within the property, including footings and agricultural drainage lines. This may require the retaining wall to have a minimum boundary setback of 200mm.

Construction of retaining walls or associated drainage work along common boundaries must not compromise the structural integrity of any existing structures.

52. 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.

53. 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.

54. 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.

55. 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.

56. Approved External Materials & Colours

The external treatment/appearance of the development must be in accordance with the approved plan prepared by ADM Architects dated 18.4.2016 titled "Colour and Materials Schedule).

57. Protection of Property

The structural integrity of adjoining properties and structures must be protected at all times during construction.

58. Pavement Materials of Footway Area

The footway area between the adopted building line and the kerb and gutter in Benson Avenue must be paved for its full width.

The developer shall provide this treatment to ensure a consistency of approach. This work must be carried out by Council, or a Council approved contractor, at the developer's expense.

PART E - PRIOR TO OCCUPATION

59. SEPP No. 65 - design quality of residential flat development

In accordance with clause 154A of the *Environmental Planning & Assessment Regulation 2000*, a Certifying Authority must not issue an Occupation Certificate to authorise a person to commence occupation or use of residential flat development unless the Principal Certifying Authority has received a design verification from a qualified designer, being a statement in which the qualified designer verifies that the residential flat development achieves the design quality of the development as shown in the plans and specifications in respect of which the Construction Certificate was issued, having regard to the design quality principles set out in Part 2 of *State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development*.

60. Repairs to Public Infrastructure

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

61. BASIX

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

62. 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.

63. 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.

64. 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.

65. Works As Executed Plans - Stormwater Drainage

Works As Executed plans (for the relevant stage) must be submitted to the Certifying Authority by a registered surveyor certifying compliance with the approved design plans in relation to all drainage works.

The Works As Executed dimensions and levels must be shown in red on a copy of the approved Construction Certificate plans.

The plans must verify surface level of constructed paved areas, surface and invert levels on all pits, invert levels and sizes of all pipelines. All levels must relate to Australian Height Datum.

66. Waste Management Signage

Educational signage is to be provided to clearly identify garbage, recycling and organics bins/storage area and the materials accepted.

67. 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 surface. 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

68. Street Trees

Prior to the issue of an occupation certificate thirteen trees must be planted on the Council footpath reserve, as follows:

- ~~a. *Elaeocarpus reticulatus* 100Lt~~
- ~~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. 2 x hardwood stakes with 50mm Hessian ties, fixed in a figure 8, to support each tree~~
- ~~f. minimum 75mm depth of organic mulch applied a minimum 600mm diameter surrounding the base of the trunk~~
- a. 2m clear trunk *Livistona australis* or 75Lt *Pyrus ussuriensis*
- b. a minimum 1.5m x 1.5m tree pit fitted with root director
- c. trees must be fitted with either a permeable aggregate, resin bound or rubber tree surface surround
- d. tree guards or decorative bollards can be fitted as per Council's specifications

69. Street Tree Planting Distances

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

- a. minimum three metres either side of a driveway or vehicular crossing
- b. minimum two metres from services and signage
- c. minimum one point five metres from a stormwater outlet/pit
- d. minimum three metres from street light posts
- e. minimum fifteen metres from pedestrian crossing and traffic signals

70. Street Tree Pre-Occupation Inspection

The street trees 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.

71. Street Trees 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 trees has not been jeopardised throughout the construction period.

72. Sign for Visitor Parking

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

73. Intercom for Visitors

The visitor spaces must always be accessible to visitors by the location of an intercom, or the like, at the car park entry and connected to all units prior to the issue of the Occupation Certificate.

PART F - PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

TORRENS TITLE SUBDIVISION

74. Works As Executed Plans - Subdivision

Works As Executed plans (for the relevant stage) must be submitted to the Principal Certifying Authority by a Registered Surveyor with the Subdivision Certificate application. The Works As Executed dimensions and levels must be shown in red on a copy of the approved Construction Certificate plans. As a minimum the plan must show:

- a. compliance with the approved design plans of all drainage works within council land, road reserve and drainage easements including connection into the subject lot/s, surface and invert levels of all pits, invert levels and sizes of all pipelines,
- b. certification from a registered surveyor that all storm water pipes and other services are wholly within an appropriate easement,
- c. compliance with the approved design plans of paved areas within rights of carriageway and road reserve,
- d. the extent, depth and final levels of filling,
- e. the location of all underground service conduits and
- f. all deviations from the approved Civil Engineering Plans.

All levels must relate to Australian Height Datum.

75. Final Plan of Subdivision

Prior to the release of the final plan of subdivision (for the relevant stage), it will be necessary to obtain a subdivision certificate. In this regard, it will be necessary to submit:

- a. an application for a Subdivision Certificate,
- b. five paper prints of the final plan of subdivision,
- c. the original and two paper copies of the 88B Instrument and Administration Sheet
- d. fees appropriate at the time of submission of the application.
- e. an electronic copy of the subdivision linework. The electronic copy should be in Map Grid of Australia 1994 Zone 56 (GDA94) coordinates and must contain closed linework of boundaries and easements. It must be submitted in DWG or DXF format on cd-rom or by email to traffic&subdivision@shellharbour.nsw.gov.au. The email and the electronic copy should be named "Subdivision Title & Stage DAno/Year Street Address Final Plan".

All sections of the plan, 88b Instrument and Administration Sheet including the original and copies, (except for the General Manager's date and signature) must be completed prior to lodging the plan.

76. 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.

Restrictions must be placed on title with respect to:

- a. access and maintenance for structures on the boundary or immediately adjacent to the boundary
- b. the provision of legal and practical access (e.g. reciprocal rights of carriageway)
- c. landscaping on boundaries
- d. drainage structures

PART G - AFTER ISSUE OF OCCUPATION CERTIFICATE/DURING OCCUPATION

77. BASIX Commitments

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

78. Protection of the Environment Operations Act 1997

Any activity including waste generation being carried out with this approval shall not give rise to offensive odour or pollution of land and/or water as defined under the Protection of the Environment Operations Act 1997.

79. Waste Management Operations

Premises which generate meat, seafood or poultry waste must have that waste collected on a daily basis or must store that waste in a dedicated refrigerated waste storage area until collection.

Provide safe and convenient access from each apartment/tenancy to the waste/recycling storage room.

Between collection periods, all waste/recycling materials generated onsite will be securely enclosed in bins and stored in the designated storage area.

80. 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 trees remain in a satisfactory condition. In the event that any street trees are found damaged, dying or removed, Council will have the option to retain the whole or part of the bond. The developer/Principal Certifying Authority must notify Council for a reinspection of the street trees.

81. Public Reserve

Grass cuttings, vegetation and any other material or object must not be placed onto the adjoining public reserve.

PART H – OTHER APPROVALS

82. Separate Consent Required for Signage

This consent does not authorise the erection of any advertising/identification signage.

A separate development application for any proposed signage (other than exempt signs under Council's *Exempt Development Control Plan* or *State Environmental Planning Policy (Exempt & Complying Development Codes) 2008*) must be submitted to Council, and approval granted, prior to the erection or display of any such signs.

Regard must be given to Council's *Advertising and Identification Signs Development Control Plan* and *State Environmental Planning Policy No. 64 - Advertising & Signage* when preparing such an application.

83. Airport Operations

- a. The proposed building is to be obstacle lit with two low intensity steady red obstacle lights installed at the highest points on the roof. For detailed obstacle lighting requirements refer to the subsections 9.4.2 and 9.4.6 of the Manual Of Standards Part 139 (MOS);
- b. Obstacle lighting is to have a remote monitoring capability, in lieu of observation every 24 hours, to alert Wollongong Aerodrome reporting staff of any outage. For detailed requirements for obstacle monitoring, within the OLS of the aerodrome, refer to the subsection 9.4.10 of the Manual of Standards (MOS) – Part 139 Aerodromes;
- c. Specification for the remote monitoring system shall be provided by the Airport Manager and final design shall be approved by the Airport Manager prior to commencement of works.
- d. All lighting elements and roof materials on site shall comply with the Manual of Standards Part 139-Aerodromes, Lighting in the Vicinity of Aerodromes (currently Section 9.21) for Zone D requirements.
- e. All plant during construction shall be below RL80m unless approved by Airport Manager. Fees and Charges may apply where flight operations are effected by works or a detailed assessment is required.
- f. For plant during construction that will be greater than RL80m but less than RL85m approval for operation can be given with a minimum of 2 weeks' notification to the Airport Manager. Any items in this range shall be obstacle marked in alternating red and white bands of colour in accordance with subsection 8.10.2 of the Manual of Standards (MOS) – Part 139 Aerodromes, or alternatively be lit with flashing white obstacle lighting during daylight hours.
- g. Request for plant during construction above RL85m are to be submitted to the Airport Manager to be referred to CASA. The process for assessment of these items will take a minimum of 2 months and no guarantee is available on approval.
- h. All permanent structures on site including aerials shall be lower than RL64.4m, with the exemption of the obstacle lighting.
- i. The proponent is to provide information to the aerodrome operator, i.e. Shellharbour City Council (the Council), that the lighting provisions are in accordance with the section 9.4 of the Manual of Standards (MOS) – Part 139 Aerodromes and the specification; and
- j. Commissioning of the obstacle lighting shall be undertaken in consultation with the Airport Manager. Obstacle lighting shall be commissioned and operational prior to the issue of the occupation certificate.
- k. The proponent is to inform the Council and CASA, upon completion, of the finished building heights for the inclusion in the Aeronautical Information Publication (AIP).

REASONS FOR THE IMPOSITION OF CONDITIONS

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

Advisory Notes – General

Critical Stage Mandatory Inspections

Mandatory inspections of the building work must be carried out by the Principal Certifying Authority at various stages of construction in accordance with clause 162A of the *Environmental Planning & Assessment Regulation 2000*.

It is recommended that you discuss with your Principal Certifying Authority the occasions when the building work is

to be inspected prior to work commencing.

Erection of Signs

The principal contractor and the Principal Certifying Authority will need to have a sign (or signs) erected and maintained on the development site that provides their name and contact telephone number (during and outside work hours for the principal contractor), and stating that unauthorised entry to the site is prohibited. The principal contractor and Principal Certifying Authority can have separate signs or they can both use one sign if they choose.

A maximum penalty of 10 penalty units applies for failure to erect and maintain sign(s) detailing principal contractor and Principal Certifying Authority identification.

WorkCover Authority

The requirements of WorkCover Authority must be satisfied at all times.

Obstacle Height Limitation - Airport

There are height limitations relating to the operation of the airport for developments/activities/construction that may involve cranes, plant or machinery in the Shellharbour Local Government Area. Further details can be obtained from Council concerning the obstacle height limitations.

Failure to Comply with Consent

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

Lapsing of Development Consent

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

Right to Appeal

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

Review of Determination

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

Section 82A of the *Environmental Planning & Assessment Act 1979* does not apply to:

- a. a determination to issue or refuse to issue a complying development certificate
- b. a determination in respect of designated development
- c. a determination in respect of integrated development
- d. a determination made by the Council under Division 4 in respect of an application made by the Crown.

To Vary Development Consent

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

BASIX

Please note that the requirement for lodging a modification of development consent under section 96 of the *Environmental Planning & Assessment Act 1979* may result in the requirement for a revised BASIX certificate to be submitted for assessment.

Prescribed Payment System Tax Obligations

You may have a taxation obligation under the Prescribed Payment System. For more information, contact the Australian Taxation Office on telephone 132866.

Dial Before You Dig

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets, please contact Dial Before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (this is the law in New South Wales). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

Telecommunications Act 1997 (Commonwealth)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the *Criminal Code Act 1995 (Cth)* and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact Telstra's Network Integrity Team on 1800810443.

Development within Vicinity of a High Pressure Gas Main

Contact Dial Before You Dig on 1100 or www.dialbeforeyoudig.com.au. Proposed works in the vicinity of any high pressure gas main must be directed to:

Jemena Asset Management Pty Ltd
PO Box 6507
SILVERWATER NSW 2128

Attention: Land Services Department

END OF RECOMMENDED CONDITIONS