
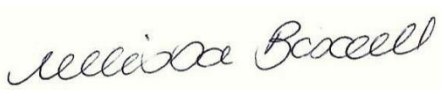


SOUTHERN REGIONAL PLANNING PANEL

SUPPLEMENTARY REPORT

SRPP No	2018STH006
DA Number	DA0005/2018
Local Government Area	Shellharbour City Council
Proposed Development	Staged construction of a single storey building to be used as a food and drink premises (Tavern) with associated basement, loading dock and signage.
Location	Lot 4003 DP1235539 Marina Drive, Shell Cove. (Old Bass Point Road, Shellharbour.)
Applicant	Fraser's Property Australia formerly Australand Corporation (NSW) Pty Ltd Holdings Ltd.
Owner	Shellharbour City Council
Attachments	Attachment 1 – Recommended Conditions Attachment 2 – Precinct D – Car Parking Assessment Strategy Attachment 3 - <i>Table 4: Predicted noise levels in report Fraser Property Group Shell Cove Waterfront Tavern DA – Supplementary acoustic report, Issue 2, Ref: AC11, dated 21 May 2018 by ARUP.</i> Attachment 4 – Modified Concept Approval Compliance Table
Supplementary Report prepared by	Madeline Cartwright, Senior Development Assessment Officer
Signature	
Report endorsed by	Grant Meredith, Group Manager City Development
Signature	
Report endorsed by	Melissa Boxall, Director Community and Customers
Signature	
Date of report	1/04/2019

1. Purpose of Supplementary Report

The Development Application (DA) 0005/2018 was reported to the Southern Regional Planning Panel (SRPP) on 17 December 2018. The decision was deferred for the following reasons:

- a. The matter to be considered in conjunction with DA0385/2017 SRPP ref: 2017STH0025 so provision of car parking to meet the needs of the development can be addressed with a level of certainty.
- b. Additional information regarding management of the loading facility to ensure the safety of pedestrians.
- c. Identification of appropriate conditions that reflect the noise report and capacity of outdoor areas. Noting that impact on properties outside of the DA site will be addressed as part of DA0385/2017 2017STH0025.
- d. Additional information regarding the detail of the finish of the concrete undercroft area.

This supplementary report will address each of the above reasons to provide a more comprehensive assessment of the proposal. The report will also address the recently approved modification to the Concept Approval.

Please note that this report should be read in conjunction with the report presented to the SRPP for the Mixed Use Development 2017STH0025. The subject DA is linked to the Mixed Use DA in so far as considerations relating to car parking and loading dock access.

(a) Car Parking

The Tavern premises will be located adjacent to a public car park area which will also service other uses within the Waterfront Precinct. This car park falls within the site area for DA0385/2017:2017STH0025. The parking assessment strategy has been discussed in **Attachment 2** of this supplementary report

In summary, the assessment concludes that the provision of car parking is satisfactory to service the Tavern use together with other uses within the Waterfront Precinct.

(b) Loading Dock

The Tavern loading dock is located at the south-western end of the Tavern, providing direct access to the public car park. The loading dock will allow access to service vehicles including waste collection and deliveries to load and unload wholly within the building of the Tavern.

The waste storage, storage and food storage areas for the Tavern will be located adjacent to the loading dock to allow for waste collection and deliveries to be carried out within the dedicated loading dock area. The lift is also adjacent to the loading dock to provide access to the basement level for storage. **Figure 1** below shows the proposed floor plan for the Tavern with the relevant storage rooms

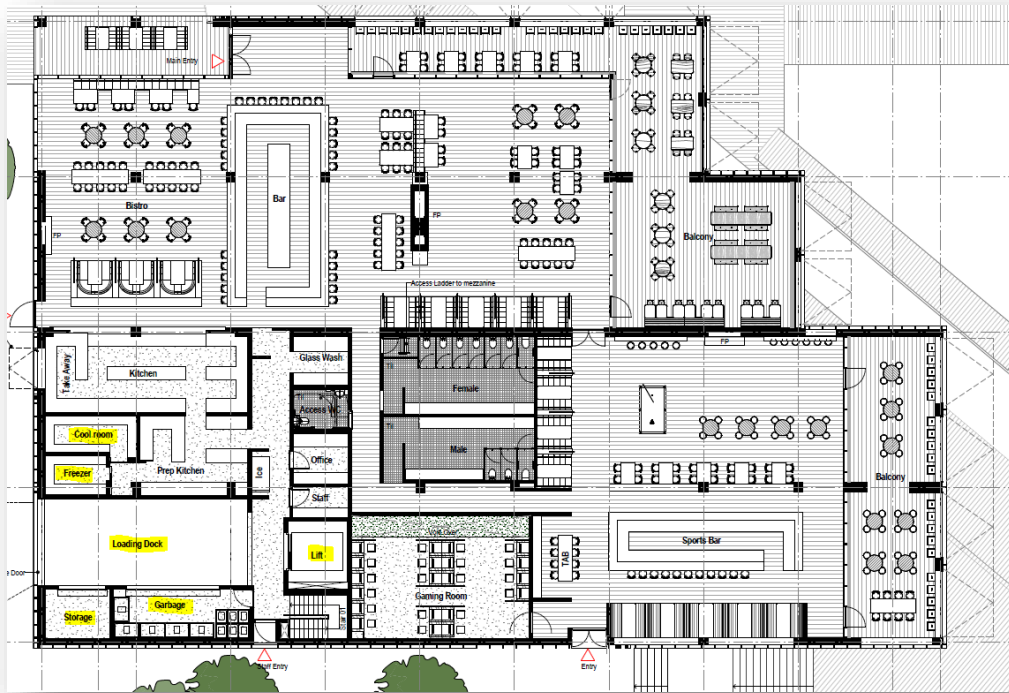


Figure 1 - Floor Plan

Access

All service vehicles will leave the premises in a forward direction. This is achieved by vehicles reversing into the loading dock from the car park. **Figure 2** shows the swept path for 6.4 metre small rigid vehicle and **Figure 3** shows the swept path for 10.7-metre-long-rigid vehicles.

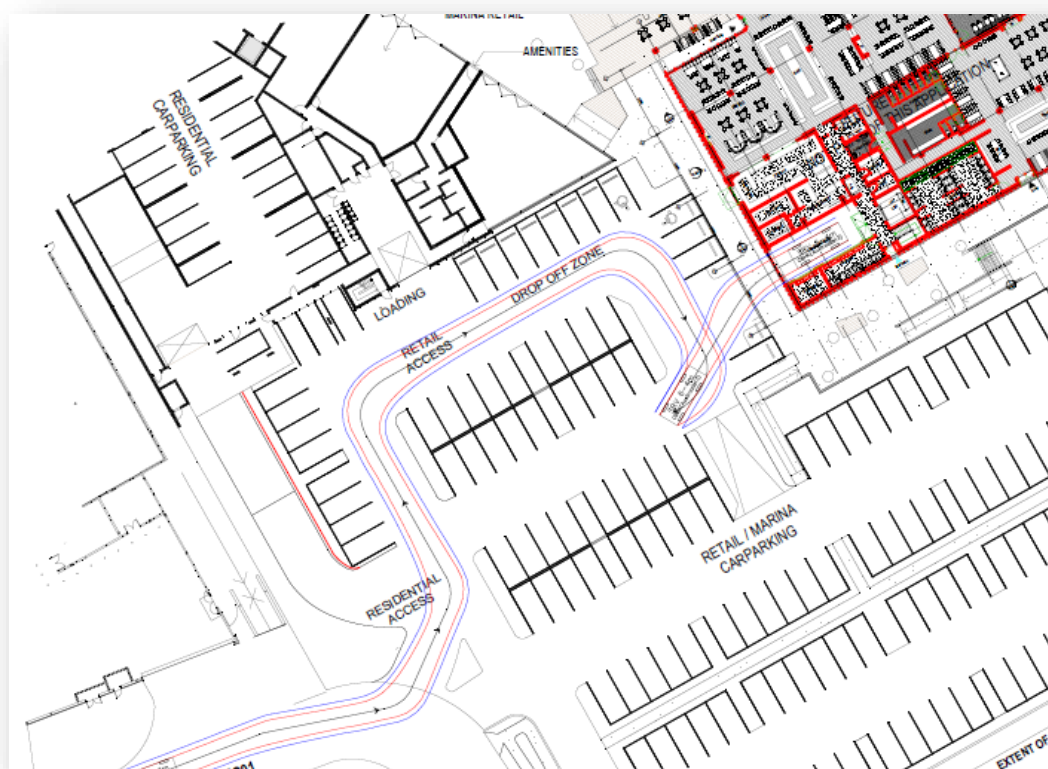


Figure 2 - Swept path for 6.4 metre rigid vehicle.



Figure 3 - swept path for 10.7 metre long rigid vehicle.

Access to the loading dock will be achieved by driving through the public car park and will cross the main pedestrian route on the south western corner of the building. The Urban Design Guidelines (UDGs) for Precinct D highlight the route around the southern and western elevations of the building as a primary pedestrian route. **Figure 4** below shows the main waterfront pedestrian routes and is represented by the blue line

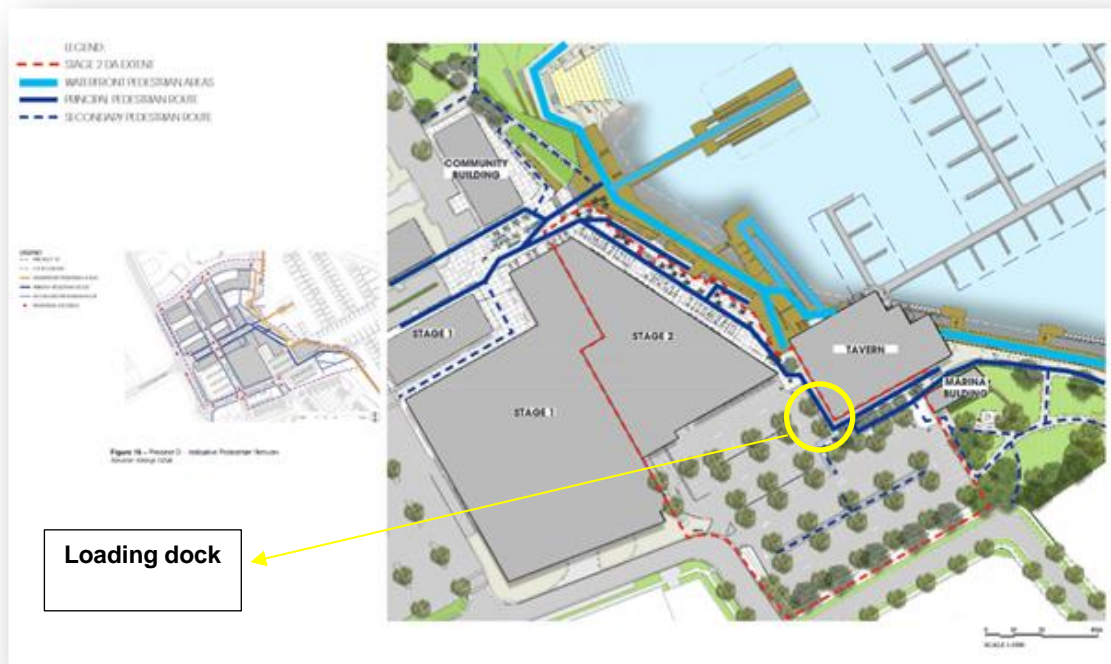


Figure 4 - Pedestrian Routes

The placement of the building was influenced by the Concept Approval, and as a result provides limitations on the location of the loading dock. As a result, the main areas in considering the location of the loading dock is based on built form requirements together with potential pedestrian conflicts. These are discussed below:

Built form considerations

The placement of the Tavern is largely due to the objective to deliver a building that integrates with the public domain to the north west and also to provide uninterrupted pedestrian access from this side. Such requirement is specified in the UDGs for Precinct D

The positioning of the loading dock on this elevation would separate the Tavern from the main public domain and would conflict with the main boardwalk which is to be one of the main features of the Waterfront precinct and Concept Approval.

The Tavern also fronts the water on the north eastern elevation, creating a unique premises which integrates seamlessly with the Marina. The Tavern is considered to be one of the key buildings within the Waterfront Precinct and this interface with the water is regarded as a positive design solution based on the built form requirements contained within the Concept Approval and UDG's. Having vehicular access on this side would again conflict with the pedestrian boardwalk route and would separate the premises from the water and is not a desired option.

The benefit of the proposed location of the loading dock also removes the requirement for an additional vehicular access point to the Tavern.

In conclusion, the building placement was largely informed by the objectives to deliver a connected pedestrian boardwalk pathway that connects the east and west areas of the boat harbour precinct.

Pedestrian Safety

The size and design of the loading dock means that the obstruction to the main pedestrian route would be conflicted only while the vehicles were entering and exiting the loading facility. The dock is large enough for a suitably sized vehicle to park wholly within the building footprint without any overhang into the pedestrian walkway.

This is seen as the option with the least limitations and a number of measures have been proposed by the applicant to mitigate the risks to pedestrians when the vehicle is entering and exiting the site. These measure include the following:

- I. The applicant has specified that the number of deliveries will be between 4 and 6 per day, this has been included in the Plan of Management for the Tavern.
- II. Deliveries will be restricted from 7am to 10pm Monday to Friday by condition with no vehicles to access or exit the loading facility between 9am and 3pm on Saturdays, Sundays and Public Holidays. This limits deliveries during peak hours on weekends and public holidays.
- III. An audible and flashing alarm will be incorporated into the loading dock to alert pedestrians to traffic.
- IV. The loading dock door will be closed when not in use.
- V. The pedestrian zones, at the cross over with the loading dock, has been materially differentiated to increase awareness for pedestrians. This is subject to a condition for DA0385/2017 2017STH0025.
- VI. Use of physical barriers that are extended out horizontally from the loading dock entry across the pedestrian route. These barriers would be for use during vehicular movements into or out of the loading dock and are then retracted once the vehicle has parked into the loading dock or left the loading dock area. The expandable gates would include appropriate safety signage to warn pedestrians to stop when the loading dock is in use.

The points above will be included in the Plan of Management for the Tavern and secured by condition

The proposed loading dock will meet the requirements of the Tavern premises. Whilst the juxtaposition of the accessway and the pedestrian route will result in the requirement of a number of mitigation measures, there is no other viable option for the loading access. Therefore the loading facility in this location is recommended to be supported.

(c) Acoustic Issues

At the December 2018 determination meeting the SRPP requested further information relating to the identification of appropriate conditions that reflect the noise report and capacity of outdoor areas.

The Tavern will be sited within the Waterfront Precinct approximately 20 metres from the mixed use development which will include residential units above ground floor commercial units. The Tavern will include full length glazed operable panels that will open up the northern and eastern

elevations to the pedestrian promenade and over the waterfront area. These areas have been referred to as balconies but are covered by the continuous roof and when the glazed operable panels are down will be within the walls of the Tavern building. **Figure 5** below shows these glass shutters open. Permanent railings will be sited inside the building to provide a barrier whilst the shutters are open.



Figure 5 - Artists' impression of north and east elevation

The balcony areas will be separated from the rest of the Tavern premises by internal walls with each balcony having internal access from the Tavern only and no external access.

Acoustic Recommendations

There is a requirement to balance the different uses within the Waterfront Precinct, protecting the proposed residential units from unreasonable noise whilst still allowing the Tavern and other commercial tenancies to operate in a reasonable manner.

For existing residencies the Environmental Protection Authority (EPA) Industry Noise Policy 'Intrusiveness' method has been applied where noise emissions are ideally kept to within 5dBA of existing background levels. Acoustic consultants ARUP have used a predicted background level for existing residential areas from AS1055.2-1997 rather than measured background noise, as the predicted level is more reflective of the urban scenario rather than the undeveloped greenfield site. This criteria is detailed in *Table 3: Existing Residential Receivers in report Fraser Property Group Shell Cove Waterfront Tavern DA – Supplementary acoustic report, Issue 2, Ref: AC11, dated 21 May 2018 by ARUP* (supplementary acoustic report Issue 2 hereafter, included as **Attachment 3**).

Based on the same EPA Industry Noise Policy, *Table 4: Predicted Noise Levels* of the *supplementary acoustic report issue 2 (attachment 3)* sets maximum noise criteria to be achieved at new residential façades in order for the buildings to meet internal noise levels with a reasonable level of noise mitigation. This is for a combined noise level of the Tavern and mixed use retail operations.

A three way approach has been identified to achieve these noise criteria:

- (i) Construction measures for the Tavern building.

These include lockable imperforate shutters/panels, provide acoustically absorptive finishes to the underside of the balcony areas and install noise monitors and/or limiters to sound systems used throughout the venue. These construction measures will be implemented through condition and will assist in the achievement of the required noise criteria.

(ii) Plan of Management for the operation of the Tavern.

The noise mitigation measures will need to include operational measures to ensure that the required noise criteria are met. Recommendations have been made by the applicant's acoustic consultant within the *supplementary acoustic report issue 2* (**Attachment 3**). These operational recommendations will form part of a noise management plan that is required by condition.

The recommendations are that the glazed operable panels on the northern elevation be closed and outdoor seating areas vacated after 8pm. Also that the panels on the eastern elevation be closed after 10pm. Once the glazed operable panels are closed the 'balconies' will be fully enclosed. Therefore, it is considered unnecessary to restrict the use or capacity of these balcony areas after these times.

These recommendations exclude the outdoor smoking area on the south eastern side of the Tavern. These must remain open in order for this section of the Tavern to be used as a smoking area. The smoking area will be the furthest part of the premises from the nearest sensitive noise receiver and will overlook the water. Therefore it is not considered that leaving these panels open will create a significant noise issue to the nearest sensitive receiver.

Figure 6 below details the floor plan of the Tavern and highlights the different balcony areas.

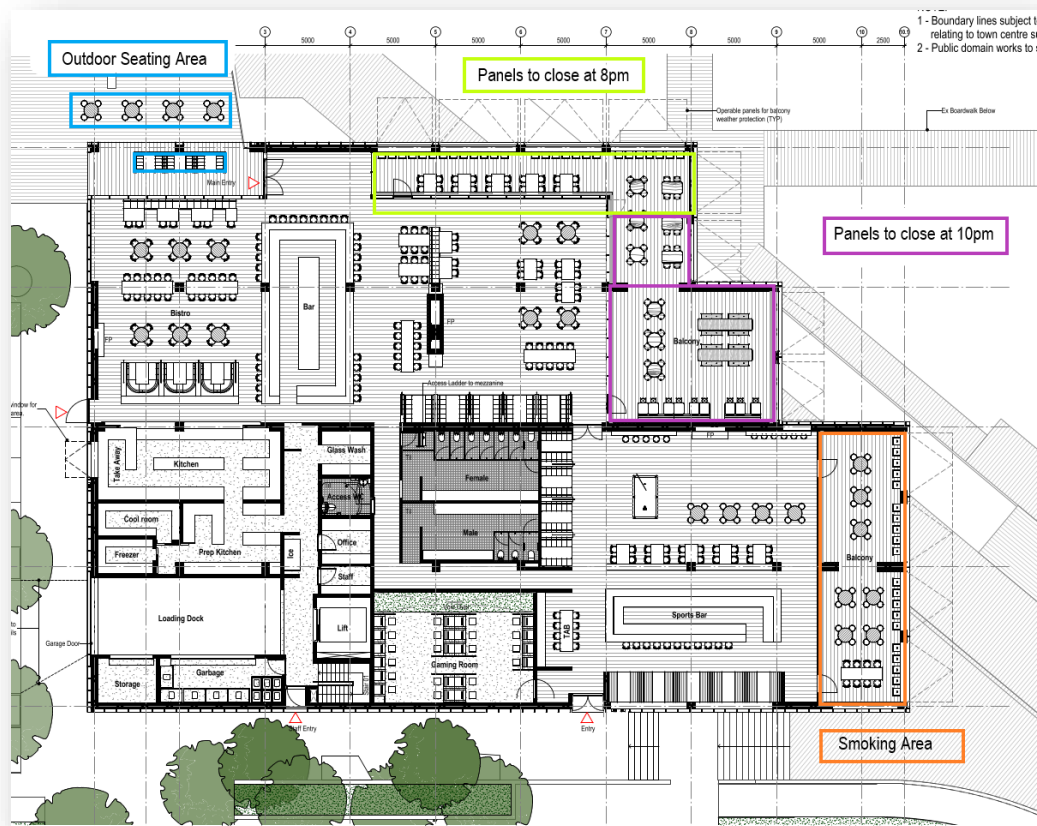


Figure 6 - Floor Plan indicating different balcony areas

The report also recommends that the main entrance to the Tavern be closed after 8pm. Council believes closing the main entrance from 8pm overly restricts the operation of the Tavern. The Concept Approval and UDGs for Precinct D require a building that integrates with the public domain to the North West and also to provide uninterrupted pedestrian access from this side. If the main entrance were to be closed at 8pm this objective would not be achieved. The acoustic strategy submitted aims to provide a balanced approach between the noise emitters and residential receivers. Further consultation with the acoustic consultant has concluded that a 10 pm closing of the main entrance is likely to be adequate, providing other recommended measures, as discussed above, are implemented.

Instead of adopting these recommendations through condition, the approach has been taken to ensure that the objectives of these recommendations are achieved. Conditions requiring the that the noise criteria as detailed in table 4 of the *supplementary acoustic report issue 2 (attachment 3)* are achieved have been recommended within **Attachment 1** of this report. These conditions look to ensure that internal noise requirements for residential receivers can be met and allow the operator to develop a noise management plan that is practical.

(iii) Acoustic measures through construction for the Mixed Use Development.

The impact on properties outside of the DA site will be discussed as part of DA0385/2017/2017STH0025 and have been addressed by suitable conditions recommended to the Panel. These requirements include a number of acoustic mitigation measures including validation and monitoring at Construction Certificate and Occupation Certificate stage. The

Council is satisfied that the measures recommended will achieve the desired outcome for residents and the commercial uses within the Waterfront Precinct.

Concluding Comments

The acoustic requirements adopted for the Waterfront Precinct commercial area, which includes the Tavern, are considered to offer a suitable balance between the use of this area as a commercial centre whilst still respecting the requirements of the nearest residential receivers. The approach taken does not limit the operator of the Tavern to particular noise mitigation measures if more appropriate measures are found during operation and when real data has been collected. However this does not mean that the recommendations made and discussed in this report are not considered to achieve the noise criteria required.

It is considered acceptable to require on going monitoring of the noise criteria during occupation of the area to ensure that the measures taken are effectively achieving the noise criteria required. This has been secured by condition.

(d) Details of finish of concrete undercroft area.

The proposed Tavern building extends over a section of the Marina boardwalk (approximately 40 metres). The boardwalk was approved as part of the ministerial approval No. DA95/133 - Shellharbour Marina. This has subsequently been modified, with the most recent modification (Mod 07) in being lodged with the Department of Planning and Environment in July 2017. This modification included the design and treatment of this section of the boardwalk which is detailed in **Figure 7** below.

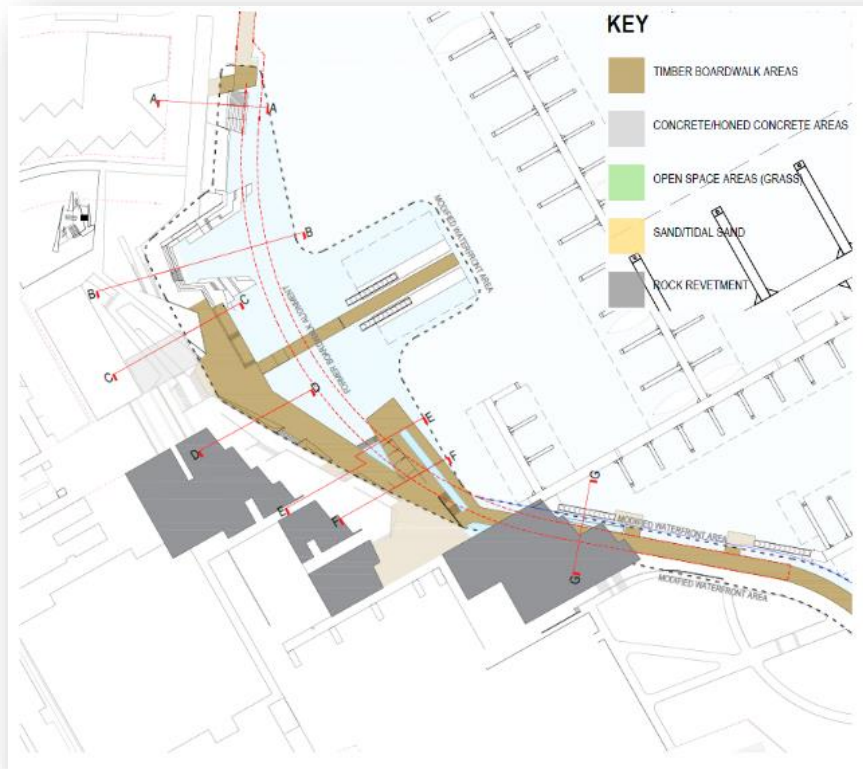


Figure 7 - Marina Boardwalk Plans (approved as part of Mod 7)

The extra level of detail included in the modification shows that the Tavern building extends over the timber boardwalk area. **Figures 8 and 9** below provides an indicative section plan illustrating the boardwalk and tavern (noted an 'indicative future building') with a height of the undercroft area to have a maximum height of 2.6 metres.

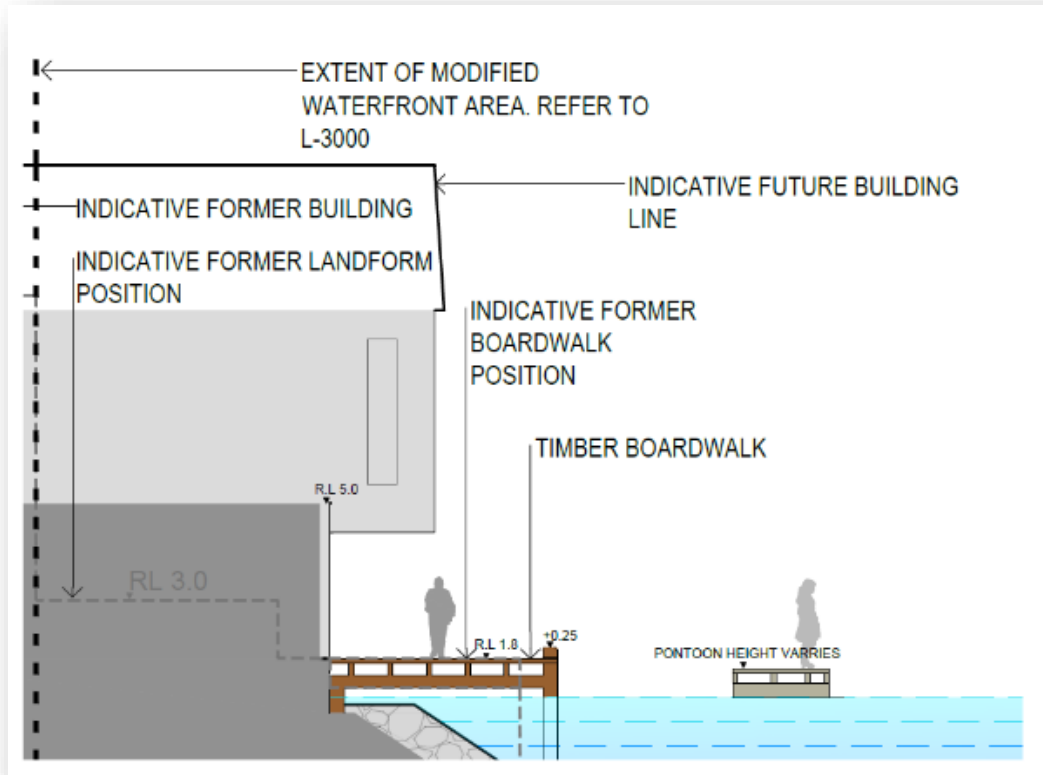


Figure 8 - Indicative Section plan of boardwalk and Tavern undercroft

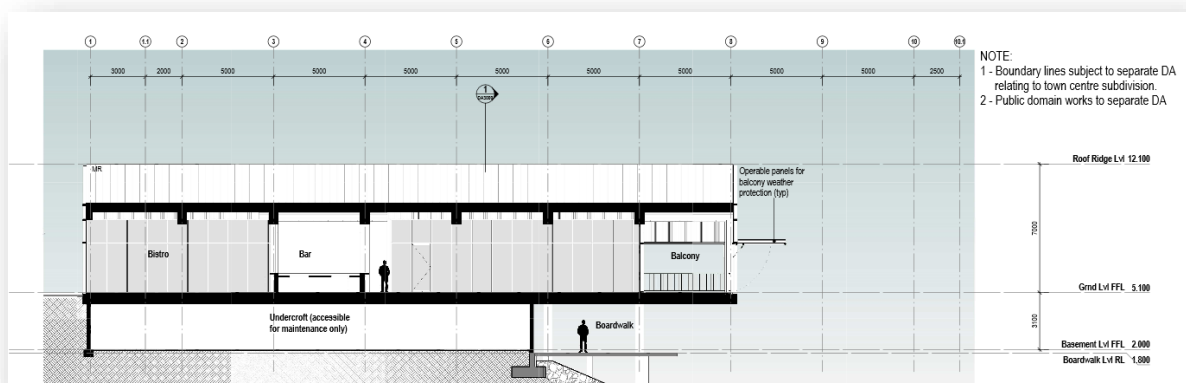


Figure 9 - Section Plan of Tavern and undercroft Boardwalk Area

The design of the undercroft space includes a building treatment which is consistent with the materials and finishes of the rest of the Tavern building. The timber façade runs parallel with the marina boardwalk ensuring no opportunity for offenders to conceal themselves along the covered stretch of the boardwalk.

The Crime Prevention through Environmental Design (CPTED) report submitted as part of the application recommended the use of Close Circuit Television (CCTV) for this area with appropriate lighting. The embellishment of the boardwalk and associated treatments do not form part of the subject DA but does form part of another development application for foreshore works including the construction of the boardwalk. This is currently being assessed under DA0357/2018 (Foreshore Stage 1) by Council. Conditions requiring appropriate lighting and CCTV have been recommended for DA0357/2018.

The wall of the basement floor of the Tavern will be treated with seasoned hardwood with dark stain finish with a 10mm gap between boards. **Figures 10 and 11** below show perspectives of the undercroft area and the proposed treatment.



Figure 10 - View of eastern elevation from boardwalk



Figure 11 - View of northern elevation from boardwalk

The mixture of timber cladding and metal is considered to compliment the marina use and the boathouse design of the Tavern building. The exposed beams add interest to the building façade whilst still maintaining the boathouse feel. The building will be located in an extreme coastal environment and therefore the metal materials used need to be corrosion resistant in order to last in this environment. The materials chosen can comply with these requirements. Details of materials included below in **Figure 12**. The treatment of the undercroft area is considered to be consistent with the main Tavern building and the surrounding Shell Cove Town Centre.

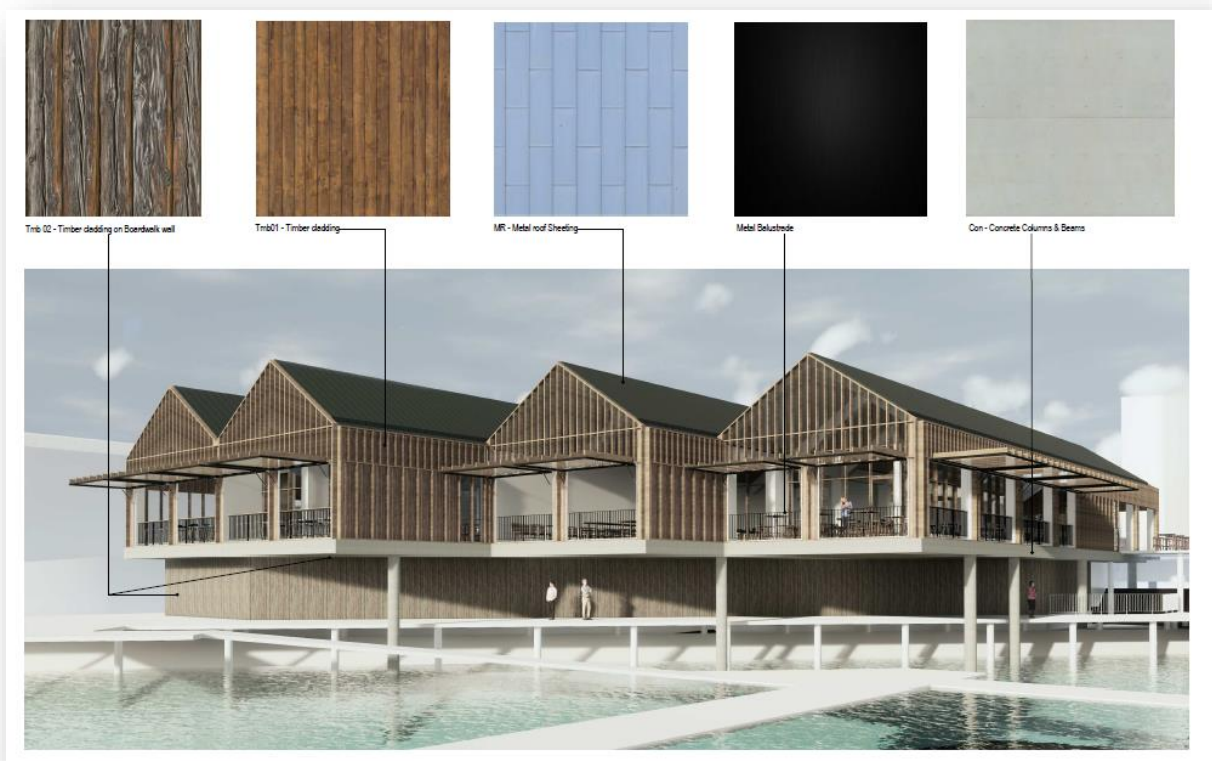


Figure 12 - Details of Materials and Finishes

2. Modification of Concept Approval

A modification application (under s75W) was lodged with the Department of Planning and Environment in August 2017. The proposed modification includes:

- (i) an increase to the maximum number of dwellings from 1,238 to 1,566;
- (ii) revised housing densities, typologies and building heights in certain areas of the Boat Harbour Precinct;
- (iii) amendments to the hotel building, including relocation to the northern edge of the Town Centre and an increase to the maximum building height; and
- (iv) a revised road pattern and layout.

The 75W was approved under the Major Project Approval *Shell Cove Boat Harbour Precinct Concept Plan*, Concept Approval No. 07_0027 MOD 1 on 18 March 2019.

Tables 1 and 2 included in **attachment 4** of this report outlines the modified conditions of the Concept Plan Approval and Statement of Commitments. Each table details the modification and the compliance with the proposed development.

In conclusion, the DA is considered to be consistent with the modified concept approval in that;

- The proposed Tavern is consistent with the tourist retail (i.e. Tavern) land use envisaged in Precinct D;
- The proposed total floor area is within the indicative maximum floor area for tourist retail;
- The Tavern is within the maximum height limit for Precinct D; and

- The materials and colour palette proposed are considered suitable for the coastal character of the area.

3. Recommendation and Conclusion

Having regard to *Environmental Planning & Assessment Act 1979* the proposal is generally consistent with the Concept Approval as modified. The proposal is consistent with relevant State and local statutory planning policies and controls. It is recommended that DA No. 0005/2018 (SRPP Ref 2018STH006) for the construction of a single storey tavern (food and drinks premises) with basement, loading dock and storage, be approved subject to the schedule of conditions in **Attachment 1**

Attachment 1 – Schedule of draft 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*. 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 following approved Development Application plans and documents as endorsed by Council's stamp except as modified by conditions of this consent.

Name of Plan/Document	Prepared By	Drawing/Document No./Revision	Drawing/Document Date
Site analysis	H & E Architects	DA0010 03	15/12/2017
Site Plan	H & E Architects	DA0025 03	15/12/2017
Basement Plan	H & E Architects	DA1100 08	15/12/2017
Ground Plan	H & E Architects	DA1101 07	29/11/2018
Roof Plan	H & E Architects	DA1102 04	15/12/2017
Section	H & E Architects	DA3000 06 & DA3001 05	15/12/2017
Elevations	H & E Architects	DA4000 04 & DA4001 04	15/12/2017
Exterior Finishes	H & E Architects	DA8011 01	15/12/2017
Signage Details	H & E Architects	DA7500 02	15/12/2017
Operational Plan of Management	Frasers Property Australia	The Waterfront Tavern at Shell Cove version 2	Un-dated
Acoustic Strategy	ARUP	Frasers Property Group Shell Cove Waterfront – Tavern DA – Supplement Acoustic report AC11 Issue 2	21/05/2018

Name of Plan/Document	Prepared By	Drawing/Document No./Revision	Drawing/Document Date
Stormwater Management Plan	Henry & Hymas	17A83_DA_C100	Oct 2017
Waste Strategy Report	Wasteless Consulting	Shell Cove Town Centre Waste Strategy Report	10/11/2016

4. Relevant Leases, Licences and Easements

Prior to issue of the Occupation Certificate the necessary leases, licences or easements as relevant need to be obtained from the appropriate authorities including Shellharbour City Council. This includes but is not limited to the undercroft area and the use of the airspace above Council Operational Land (i.e. Boardwalk).

PART B - PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

5. Section 94 Contributions

A contribution of \$1,879.53, subject to annual indexation, must be paid to Council towards the provision of public amenities and public 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 2016 Amendment 1 dated 8 March 2017* in the following manner:

- Non-residential contribution – \$1,879.53

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

6. 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:

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

- d. 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,
- e. the recommended treatment of any unstable areas within privately owned allotments;
- f. requirement for subsurface drainage lines, and
- g. overall assessment of the engineering plans for the proposed development and their suitability in relation to the site's geotechnical characteristics.

7. Pedestrian Barrier and Alarm System

A detailed plan including operating details of the proposed barrier and alarm system to be used during vehicle entry and exit of the loading dock must be submitted for approval to the Principal Certifying Authority prior to issue of the Construction Certificate. The barriers must ensure that pedestrians cannot walk in front of the loading bay access point when a vehicle is entering or exiting.

8. 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 Stormwater Management Plan 17A83_DA_C100 prepared by Henry & Hyams, October 2017,
- b. drain to the council pit,
- 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 10)* unless variation is specifically noted and approved on DA concept drainage plan, and
- h. evidence must be provided to demonstrate that all stormwater run-off from the site will be captured and treated in accordance with Water Sensitive Urban Design principles.

The treatment goals for removal of pollutants and nutrients are: Gross Pollutants – 90%; Total Suspended Solids - 80%; Total Phosphorus – 45%; Total Nitrogen – 45%.

9. Structural Capacity of Stormwater Pipes

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

10. Construction Environmental Management Plan

A Construction Environmental Management Plan (CEMP) must be prepared and submitted to the Principal Certifying Authority for approval prior to issue of a Construction Certificate. The CEMP must include but not be limited to:

- a. sediment and erosion controls,
- b. management of fuels and chemicals,
- c. construction noise controls,
- d. dust control measures,
- e. cultural Heritage stop work protocol,
- f. native fauna protection measures,
- g. acid sulfate soil unexpected finds protocol, and
- h. contaminated lands unexpected finds protocol.

11. Flooding Commercial Development

The Flood Planning Level (FPL)(100yr ARI + 500mm Freeboard) for this site is RL 2.8m AHD. The 100yr Average Recurrence Interval (ARI) flood level for this site is RL 2.3m AHD. The Probable Maximum Flood (PMF) Level for this site is RL 2.4m AHD.

The development shall comply with the following restrictions:

- a. floor levels: All floor levels (with the exception of the basement level which will be waterproofed up to the FPL) shall be equal to or greater than the FPL,
- b. building components and method: All structures to have flood compatible components up to and including the FPL in accordance with Appendix 9 of Shellharbour City Councils Development Control Plan, and
- c. structural soundness and engineer's certificate: An engineer's certificate certifying that structures are designed to withstand forces of floodwaters, debris and buoyancy up to and including the FPL is to be submitted with the Construction Certificate Application.

12. Kitchen Exhaust Design

The kitchen exhaust and any mechanical ventilation must discharge through the roof of the building. The kitchen exhaust and any mechanical ventilation and associated ductwork must not discharge through, or be attached to, the outside wall or outside face of the building. Detailed plans showing the location, ducting, pipework of the proposed exhaust system, manufacturers details of the proposed exhaust system and documentation verifying the proposed exhaust system will comply with AS 1668.2 - Part 2 (Ventilation Design for Indoor Air Contaminant Control) must be provided to the Principal Certifying Authority prior to the issue of the Construction Certificate.

13. Sydney Water Trade Waste Agreement

Provide written approval from Sydney Water that indicates that a trade waste agreement has been entered into for the grease trap that will be utilised for the food business operations. This information must be provided to the Principal Certifying Authority prior to issue of the Construction Certificate.

14. Floor Waste

Plans showing the location of the floor waste(s) must be provided to the Principal Certifying Authority prior to issue of the Construction Certificate.

15. Health - Food Premises - Plans & Specifications

Details of the construction and fit out of food premises (including associated store rooms) must be submitted to Principal Certifying Authority for approval prior to the issue of the Construction Certificate.

The plans and specifications must demonstrate compliance with the:

- a. *food Act 2003* (as amended),
- b. food Regulation 2015 (as amended),
- c. *food Standards Code* as published by Food Standards Australia,
New Zealand and Australian Standard AS4674:2004 Design, Construction and fit out of food premises (as amended), and
- d. Sydney Water - trade Waste Section.

16. Health – Food Premises – Waste Facility

Details of the construction and fit out of the waste facility of the food premises must be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate. Such details must demonstrate compliance with the *Food Act 2003* (as amended), Food Regulation 2010 (as amended); the Food Standards Code as published by Food Standards Australia and New Zealand and Australian Standard AS 4674:2004 Design, construction and fit out of food premises (as amended.) and must be:

- a. provided with a hose tap connected to the water supply,
- b. paved with impervious floor materials,
- c. coved at the intersection of the floor and the walls,
- d. graded and drained to a waste disposal system in accordance with the requirements of the relevant regulatory authority (Sydney Water), and
- e. adequately ventilated (mechanically or naturally) so that odour emissions do not cause offensive odour as defined by the Protection of the Environment Operations Act, 1997.

17. Fire Resistance

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

18. Noise Mitigation Treatments

Plans detailing the noise mitigation treatments to be included within the construction of the Tavern must be submitted to and approved by the Principal Certifying Authority prior to issue of a Construction Certificate.

These treatments must include:

- a. lockable imperforate shutters / panels along the northern perimeter of the Tavern that can be opened and closed to adequately control noise emission to the nearby receivers,
- b. acoustically absorptive finishes incorporated in the underside of external roof areas and internal finishes,
- c. noise monitors and/or limiters to sound systems used throughout the venue, and
- d. noise mitigation treatments for building services considering recommended measures from 4.3.3 of ARUP *Shell Cove Waterfront Tavern Development Application Supplement Acoustic Report* (2018).

These plans must be accompanied by a verification report from a suitably qualified acoustic consultant to certify that the noise criteria detailed in *Table 4: Predicted noise levels in report Fraser Property Group Shell Cove Waterfront Tavern DA – Supplementary acoustic report, Issue 2, Ref: AC11, dated 21 May 2018 by ARUP* will be achieved.

19. Noise Management Plan

A Noise Management Plan is required to be prepared and submitted for approval to Council prior to issue of a Construction Certificate. The plan must ensure the operation of the Tavern meets the noise criteria detailed in *Table 4: Predicted noise levels in report Fraser Property Group Shell Cove Waterfront Tavern DA – Supplementary acoustic report, Issue 2, Ref: AC11, dated 21 May 2018 by ARUP*.

The management plan must consider the recommendations detailed in section 4.3.2 of the *Fraser Property Group Shell Cove Waterfront Tavern DA – Supplementary acoustic report, Issue 2, Ref: AC11, dated 21 May 2018 by ARUP*.

20. Long Service Levy

The Long Service Levy must be paid prior to the issue of the Construction Certificate for work exceeding a value of \$25,000.00.

PART C - PRIOR TO COMMENCEMENT OF WORKS

21. Structural Details

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

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

Council records indicate that fill may be present in this area. The engineer's design must make specific reference to fill as a consideration.

22. Building Plan Approval - Sydney Water

The approved plans must be submitted to a Sydney Water TapIn™ 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. Sydney Water's Tap in™ online service is available at:

<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

The Certifier must ensure that Sydney Water TapIn™ has issued appropriate electronic approval prior to the commencement of any works.

23. 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 is 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.

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

25. 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.

26. Erosion and Sediment Control

Erosion and sediment control measures must be installed prior to the commencement of any demolition, excavation or construction works upon the site. These measures must be maintained throughout the entire excavation and construction phases of the development.

PART D - DURING & CONSTRUCTION WORKS

27. Hours of Work During Construction Work

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

- 7am to 6pm Mondays to Fridays, and
- 8am to 1pm Saturdays

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

28. Construction Environmental Management Plan

The approved Construction Environmental Management Plan required by Condition 10 of this consent must be adhered to at all times during construction.

29. Construction Noise

Construction noise levels must be managed according to the EPA *Interim Construction Noise Guidelines*.

30. Sediment and Erosion Controls

Sediment and erosion controls must be maintained at all times and checked for adequacy daily. The controls must remain until the construction phase of the proposal is completed and disturbed areas have been stabilised.

31. Management of Fuels and Chemicals

Fuels and chemicals must be stored safely onsite. Refuelling and mixing chemicals must be conducted in a designated bunded areas specified in the Construction Environmental Management Plan.

32. Dust Control

Protocols to control dust leaving the site during construction must be implemented and must include but not be limited to: monitoring and regular water carters wetting any dry areas of exposed ground.

33. Cultural Heritage

A stop work protocol must be included in the Construction Environmental Management Plan and implemented for any potential heritage items found during excavation including ceasing work immediately if any Aboriginal objects are found/uncovered, secure the site and inform Office of Environment and Heritage and Shellharbour Council's Aboriginal Liaison Officer immediately.

34. Aboriginal Heritage Induction

The applicant must ensure that the construction/project supervisors are fully informed and briefed with respect to the consent and Aboriginal Heritage Permit (AHIP) No. 2534.

Prior to any works commencing on the land all staff, contractors and sub-contractors working on site must be inducted on Aboriginal Heritage implications and must sign acknowledgement of having received and understood this induction. This induction record must be retained on site for the duration of the construction works.

35. Protection of Native Fauna

Measures to minimise risk of harm to native fauna must include:

- a. Inspect in an around all vehicles and machines to ensure no native fauna is present prior to turning on or recommencing work,
- b. Cover trenches when possible to avoid trapping native fauna such as frogs and reptiles,
- c. Inspect trenches prior to filling, and
- d. Contact WIRES or South Coast Wildlife Rescue on 0418 427 214 immediately in the event of injury to native fauna.

36. Acid Sulphate Soil Unexpected Finds Protocol

Stockpiles and excavations must be observed for obvious signs of Acid Sulphate Soil (ASS) oxidation, such as rotten egg smell or jarosite staining. If signs are evident, works must cease, and a suitably qualified consultant engaged to prepare an Acid Sulphate Soils Management Plan to guide the management of ASS onsite.

37. Contaminated Land Unexpected Finds Protocol

Should any contamination or suspect material be encountered during site preparation, earth works, construction or any other stage of the development, works must cease immediately, and a suitably qualified consultant engaged to conduct a thorough contamination assessment and provide recommended management actions to guide the management of any contamination onsite. Council must be notified if this protocol is required to be enacted.

38. 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.

39. Flooding Survey Certification

A survey certificate, signed by a Registered Surveyor, shall be submitted for approval when the formwork for the main floor area is completed. This certificate shall certify that the main floor and any habitable floor levels shall be constructed at or above the Flood Planning Level R.L 2.8m AHD.

40. Waste Management

The management of waste must comply with the approved Waste Management Plan. All receipts such as waste disposal dockets must be retained (refer Part E). Any variations to the Waste Management Plan must have prior written approval of Council.

41. Storage of Materials

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

42. Survey Certification

A report from a registered surveyor must be provided to the Certifying Authority prior to external walls being raised above ground floor level OR on completion of the ground floor slab formwork prior to the concrete being poured.

The report must certify all of the following:

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

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 a final Occupation Certificate. The buildings must not be occupied until the Principal Certifying Authority issues an Occupation Certificate.

44. Sydney Water Section 73 Compliance Certificate

A Section 73 Compliance Certificate under the *Sydney Water Act, 1994* must be obtained from Sydney Water Corporation. The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

It is recommended that applicants apply early 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.

Application must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

45. Noise from Mechanical Plant & Equipment

Noise from the operation of mechanical, equipment, ancillary fittings, machinery, mechanical ventilation system and / or refrigeration systems should comply with the noise intrusion criteria as defined under the NSW Noise Policy for Industry published by the Environment Protection Authority.

A professional acoustic engineer shall be engaged to certify that the design and construction of all sound producing plants and equipment associated with the building complies with the above requirements. Certification shall be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

46. Verification of Waste Management

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

47. Subdivision Certificate

Prior to the release of the Occupation Certificate, evidence of the registration of the relevant subdivision is to be provided to Council.

48. Operational Car Park

Prior to issue of the Occupation Certificate, documentation certifying:

- a. an Occupation Certificate has been issued for the car park included within the adjoining mixed use development DA0385/2017, and
- b. any required right of way is in place to allow suitable servicing of the Tavern premises,

must be provided to the Principal Certifying Authority.

49. 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.

50. Food Premises - Inspection & Registration

Prior to the issue of any Occupation Certificate or occupation or use of any food premises:

- a. satisfactory final inspection must have been undertaken by the Principal Certifying Authority certifying that the use of the premises for the preparation, display and storage of food has been carried out in accordance with the development consent, and
- b. the food premises must submit to Shellharbour City Council a '*Food Business Registration Form*'. The form can be found on Council's website by visiting: <http://www.shellharbour.nsw.gov.au/Documents/Forms-and-Application/Compliance/Food-business-registration-form.aspx>

51. Sydney Water Requirements

Written approval from Sydney Water that indicates that a trade waste agreement has been entered into for the grease trap that will be utilised for the food business operations must be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

52. Litter Control

A Plan of Management for litter control must be produced and implemented for the operation of the premises. In particular, the plan must identify how litter will be controlled and managed in and around the building and property.

This section of the plan must address:

- a. the scheduling for the litter management, and
- b. a map illustrating the area that will be managed. In this regard, the area must include areas outside of the property boundary (including areas adjacent to the boundary and public footpath areas).

53. Operational Plan of Management to be Submitted and Approved

The Operational Plan of Management approved as part of this consent must be amended to include the following:

- a. removal of graffiti – the operator of the site must be responsible for the removal of all graffiti from the building within 48 hours of its application,
- b. removal of glass - Patrons must be prevented from removing glasses, opened cans, bottles or alcohol from the premises,
- c. litter Management Control requirements as required in condition 52,
- d. lockers must be provided for employees to lock away their valuables during the time they are working,
- e. access and security - access control should be set in place to exclude unauthorised access to restricted areas. Signage should be placed in areas that are restricted to employees only,
- f. delivery times included in the plan are to reflect those specified in condition 58 of the consent,
- g. the required barriers and alarm system as specified in condition 7 of the consent are to be used when a vehicle is entering or exiting the loading dock,
- h. off premises sales of alcohol are to be over the bar only, no alcohol is to be sold via the kiosk window,
- i. all loading and unloading including glass and other waste collection shall take place wholly within the premises, and
- j. operational Noise Management Plan as required by condition 19.

The amended plan signed by the premise's operator/licensee must be submitted to and approved by Council prior to an Occupation Certificate being issued.

54. Food premises – Garbage Odour

A waste contractor shall be engaged to remove all waste from the garbage storage area on a regular basis so that no overflow of rubbish will occur. Practical measures are also to be taken to ensure that odour emission from the garbage storage area does not cause offensive odour as defined under the provision of the *Protection of the Environment Operations Act, 1997* (as amended).

55. Food Premises - Storage of Waste - Used Cooking Oil

Used oil shall be contained in a leak proof container and stored in a covered and bunded area prior to off-site disposal. Copies of receipts for the disposal of used cooking oil shall be kept on-site and made available to Council Officers upon request.

56. Noise Mitigation Treatments

Prior to issue of an Occupation Certificate written certification must be provided to the Principal Certifying Authority by a suitably qualified acoustic consultant detailing that the noise mitigation treatments required as per condition 18 of this consent have been achieved.

57. Health - Lighting - General Nuisance

Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads. The design must ensure no adverse impact on the amenity of the surrounding area by light overspill.

PART F - AFTER ISSUE OF OCCUPATION CERTIFICATE/DURING OCCUPATION

58. Hours of Operation and Delivery times

The hours of operation are restricted to:

- a. for the food and drink (Tavern) premises between 10am and midnight Monday to Saturday and 10am and 10pm on Sundays,
- b. Kiosk (takeaway food) operating hours are to be restricted to between 7am to 8pm Monday – Sunday,
- c. All commercial vehicles movements including deliveries and waste collection are restricted to the hours of 7am and 10pm Monday to Friday, and
- d. No vehicles are to access or exit the loading dock between 9am and 3pm on Saturdays, Sundays and Public Holidays.

59. On Site Loading Areas and Operation

All loading and unloading operations associated with servicing the site must be carried out within the confines of the site with the loading dock doors closed, at all times and must not obstruct other properties/units or the public way.

At all times the service vehicle docks, car parking spaces and access driveways must be kept clear of goods and must not be used for storage purposes, including garbage storage.

60. Operational Management Plan Implementation

The Tavern must be operated in compliance with the approved Operational and Noise Management Plan.

61. Maximum Number of Persons Signage

The maximum number of people (including staff and customers) in the premises shall be no more than 800 people at any one time.

62. Prescribed Condition for Maximum Patronage Signage

A sign must be displayed at the main entry point to the building in a prominent position stating the maximum number of persons, as specified in condition 61 of this consent, that are permitted in the building.

Note: Clause 98D of the Environmental Planning and Assessment Regulation 2000 requires a sign specifying maximum number of persons permitted in the building to be displayed in a prominent position for the following types of premises:

- I. Entertainment venue,
- II. Function centre,
- III. Pub,
- IV. Registered club, and
- V. Restaurant

63. Acoustic Testing

The operator of the premises is required to undertake relevant acoustic testing to demonstrate that the noise criteria is being achieved as required by *Table 4: Predicted noise levels in report Fraser Property Group Shell Cove Waterfront Tavern DA – Supplementary acoustic report, Issue 2, Ref: AC11, dated 21 May 2018* prepared by ARUP. The testing must occur during the first 12 months of the operation of the premises and based on the following:

- at least 5 times during the 12 month period, with two samples taken during the summer period, and,
- at peak times, including Saturday mid-afternoon and evening.

Where the testing has shown non-compliances with noise criteria detailed in *Table 4: Predicted noise levels in report Fraser Property Group Shell Cove Waterfront Tavern DA – Supplementary acoustic report, Issue 2, Ref: AC11, dated 21 May 2018* prepared by ARUP, appropriate operational mitigation measures must be implemented in the plan of management and noise management plan for the site. Such mitigation strategies must be implemented immediately.

Documentary evidence must be provided to Shellharbour City Council. The evidence must demonstrate the above and lodged with Council not more than 3 months after the testing period. This must include any revised operational and noise management plans.

64. Copies of Consents and Management Plans

A full and current copy of all current development consents for the operation of the premises and the approved Plan of Management must be kept on-site and made available to Police or Council Officers, or Special Investigator upon request.

The use must always be operated / managed in accordance with the Plan of Management, signed and dated by the premise's operator.

65. Neighbourhood Amenity

- a. Signs must be placed in clearly visible positions within the premises requesting patrons upon leaving the premises to do so quickly and quietly, having regard to maintaining the amenity of the area.
- b. The management must ensure that the behaviour of patrons entering and leaving the premises does not detrimentally affect the amenity of the neighbourhood. In this regard, the management must be responsible for the control of noise and litter generated by patrons of the premises and must ensure that patrons leave the vicinity of the premises in an orderly manner to the satisfaction of Council and the Licensing Authority.

66. Flooding Storage of Materials

The Probable Maximum Flood (PMF) for this site is RL 2.4m Australian Height Datum. At no time during occupation shall materials be stored which may cause pollution or be potentially hazardous during a Probable Maximum Flood event.

67. Waste Streams

In accordance with Wasteless Consulting, Shell Cove Town Centre, Waste Strategy Report dated 10 November 2016, the following waste streams shall be collected and disposed at a suitable licensed facility:

- a. General Waste,
- b. Paper and Cardboard,
- c. Mixed recycling (plastics, glass, steel and aluminium),
- d. Organic Waste, and
- e. Oil and grease trap service to food retailers.

68. Waste Receipts

A permanent record of receipts for the removal of both liquid and solid waste from the site shall be kept and maintained up to date at all times. Such records to be made available to Council's Officers upon request.

69. Waste Management Plan

The development shall adhere to the design elements and operational functions in accordance with the Wasteless Consulting, Shell Cove Town Centre, Waste Strategy Report, 10 November 2016.

70. Signage – Illumination

The approved signs must only be illuminated during the approved business hours of operation.

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.

71. Separate Consent Required for Additional Signage

Additional signage, including window signage, must not be erected or displayed without first gaining development consent from Shellharbour City Council unless the sign is in accordance with the requirements of *State Environmental Planning Policy (Exempt & Complying Development Codes) 2008*.

Note: Window signage includes paint, vinyl strips and the like.

END OF RECOMMENDED CONDITIONS