

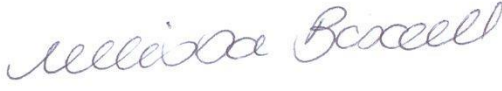


SOUTHERN REGIONAL PLANNING PANEL

ASSESSMENT REPORT SUMMARY AND RECOMMENDATION COVER SHEET

JRPP No.	2018STH017
DA Number	0262/2018
Local Government Area	Shellharbour City Council
Proposed Development	Mixed Use Development - Seven Storey Building Comprising Seven Business Premises And 77 Residential Apartments. Shop Top Housing Including Two Basement Parking Levels And Roof Top Common Area
Location	Lot 3, DP 1072916, 16 College Avenue, Shellharbour City Centre
Applicant/Owner	PAG Projects Pty Ltd
Number of Submissions	Nil
Regional Development Criteria (Schedule 7)	<p>Clause 2 ' General development over \$30 million' Development that has a capital investment value of more than \$30 million'</p> <p>The proposed development lodged with a CIV of \$41.73M.</p> <p>Revised CIV with amended plans reduced cost to \$34.42M.</p>
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • State Environmental Planning Policy No. 55 – Remediation of Land; • State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Building Development; • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004; • Shellharbour Local Environmental Plan 2013; • Shellharbour Development Control Plan 2013; • Shellharbour Section 94 Contributions Plan 2013; • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality; • The suitability of the site for the development; • Any submissions, and • The public interest.
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Attachment 1 – Recommended Conditions • Attachment 2 – Development Plans • Attachment 3 – Assessment of Compliance Apartment Design Guidelines (SEPP 65) • Attachment 4 – Applicants Statement of Environmental Effects, Clause 4.6 and ADG Compliance Analysis • Attachment 5 – Design Review Panel Minutes • Attachment 6 – Applicants Design Review Panel response • Attachment 7 – External Referral Responses & Public Exhibition Notices
Recommendation	That DA No. 0262/2018 (JRPP Ref No. 2018STH025) be approved subject to the schedule of conditions contained in Attachment 1 .

Report prepared by	Bryce Koop - Senior Development Assessment Officer 
Report endorsed by	Grant Meredith, Group Manager – City Development 
Report endorsed by	Melissa Boxall, Director – Community and Customers 
Date of Report	3 June 2019

PLANNING REPORT

1. Purpose of Report

The purpose of this report is to seek a determination from the Southern Regional Planning Panel's (SRPP hereafter) of a Development Application (DA) for the construction and use of a building with a total gross floor area of 9,407.6m² comprising of a Mixed Use Development with seven business premises and 77 residential apartments.



Figure 1 – Illustration of Development in Partial City Centre Context



Figure 2 – Illustration of Development along College Avenue

2. Planning Background and Context

The site is located within Shellharbour City Centre, which covers an area of approximately 70ha was identified in the 1970s.

The Shellharbour City Master Plan was the strategic planning document designed to provide guidance and direction for the future development of the City Centre. The Master Plan was adopted on 15 December 1998 and revised and amended in 2002 and again in 2008. This Master Plan has now been incorporated into DCP 2013.

This suite of documents provides the planning and policy framework for development in the Shellharbour City Centre.

Figures 1 and 2 illustrate the context and location of the site and development.

Figures 3 and 4 below show the site location in regional context and city centre context.

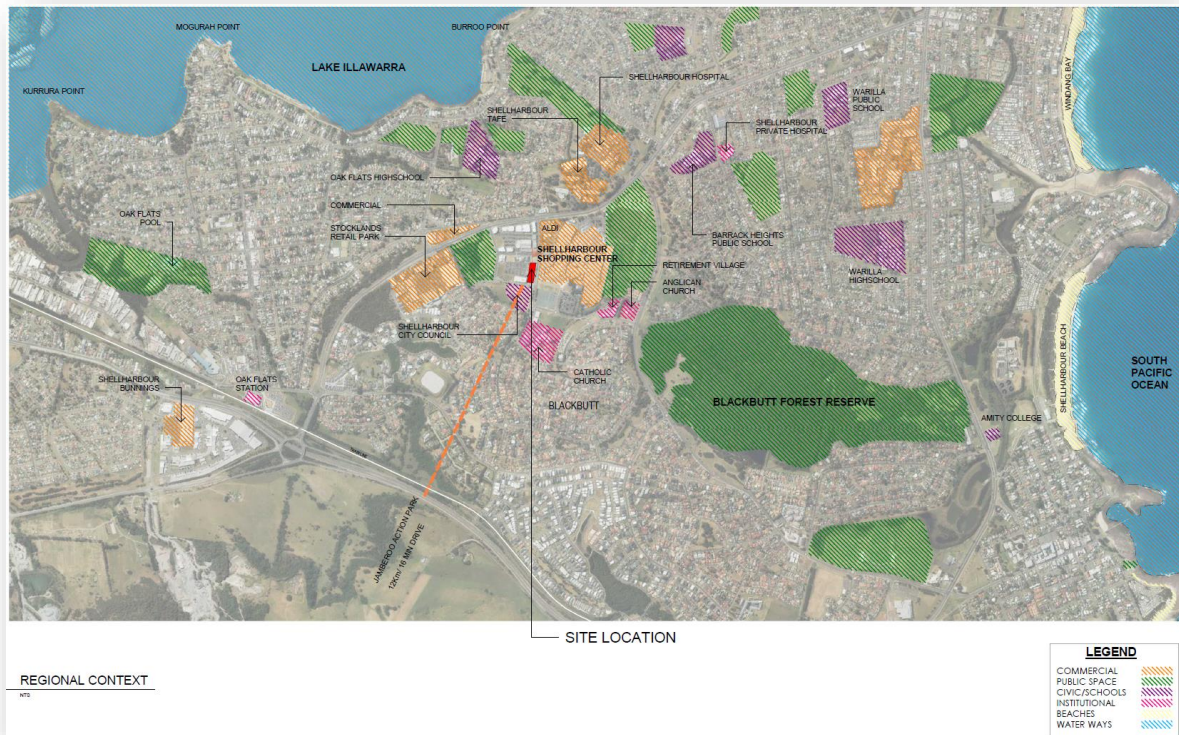


Figure 3 – Site Location – Regional Context



Figure 4 – Site Location – Shellharbour City Centre

3. Southern Regional Planning Panel (SRPP) Briefing Response

At its briefing meeting of 30 October 2018, the SRPP noted the following key matters to be addressed during the assessment process:

1. *The plans discussed are amended concept plans following Design Review Panel. DA Submitted plans are also part of set (2 tower concept).*

Officer Comment:

The amended plans have responded well to the design concern. The building has been reduced to a form of development that is of less bulk, scale and density. This has resulted in a building that responds better to the site topography and relevant planning considerations.

2. *The building is very internalised – separation/circulation is needed through the design improvements to satisfy required matters.*

Officer Comment:

The amended plans have addressed the concern through reduced density and form including a reduced Floor Space Ratio from 3.18:1 to 2.93:1 and apartment yield from 84 to 77.

3. *Needs further activation of Cygnet/College Avenues and also a story about the context it will sit in.*

Officer Comment:

The amended plans now show all business premises more actively addressing Cygnet & College Avenue, which engage the street. The finish floor level of the business premises are at the same grade as the finished ground level of the adjoining footpath along College Avenue. Note comparative College Avenue streetscapes below showing as lodged (**Figure A**) and as amended and current (**Figure B**).



Figure A - As Lodged



Figure B - As Current

The forecourt area has been increased in size and includes landscaping and defined seating areas. The proposal overall is now more in keeping with the existing context & desired future character.

4. *Need to justify design excellence to offset height through detailed Context Analysis. Height important as there is no FSR or site coverage controls. 30% footprint non-compliance over the site. Urban Design response which includes DCP – City Centre control analysis. SoEE & Clause 4.6 should be based from this & not just a based numerical variation.*

Officer Comment:

The applicant has engaged City Plan – Town Planning Consultant. Together they have completed a site specific Urban Design Analysis and a detailed Clause 4.6 variation to support the application in the necessary detail. These matters are discussed throughout this report.

The proposal now presents as appropriate in scale and form for the key city centre location.

5. *Improved internal design if the building is split, consideration of corner apartments, internal light wells, ventilation, podium green space for business units. This will provide better outcomes to ventilation and reduce overall ‘internalisation’ of building. Both which were fundamental concerns raised by Panel.*

Officer Comment:

The amended proposal results in a building form and articulation that contributes positively to its context. The number of units has been reduced, allowing for changes internally within the building that improve amenity and layout inside the building.

6. *Further review from Design Review Panel. Revised concept should be a combination of the 2 previous versions for complete ADG compliance.*

Officer Comment:

The application was referred back to the Design Review Panel (DRP), who reviewed the amended plans and provided comment including recommendations on 2 April 2019. See below for DRP response on the matters including the applicant’s further response. **Attachment 6.**

7. *Inclusion of the through link between the city centre carpark and College Avenue should be explored.*

Officer Comment:

The proposal has responded by providing a generously size pedestrian connection through the site, with clear access from College Avenue to Moolawang Place via the lobby area. This will continue to be in private ownership and will require an easement on title to allow public access. These conditions have been incorporated within the draft conditions.

8. *Must demonstrate ADG compliance in further detail – Please provide detailed analysis & key ADG items to be addressed.*

Officer Comment:

A revised Apartment Design Guideline compliance table and detailed assessment of the nine principles has been provided. Variations have been addressed as required.

9. *Basement to ensure compliance for all vehicle movements, including turning circles/height for waste vehicles.*

Officer Comment:

Council's Development Engineers have reviewed the amended plans including the waste movement areas and Traffic Impact Assessment by consultants TTPA. No objections are raised and relevant conditions have been applied.

4. Design Review Panel

The application was considered by Council's independent Design Review Panel (DRP) on 29 June 2018, prior to any briefing with SJPP. A copy of the DRP minutes is found within **Attachment 5**.

The review of the application was undertaken 1 month after the DA was lodged. The summary and recommendations of the DRP were as follows:

The panel is concerned that the current proposal does not respond appropriately to its context and provides a particularly poor interface with College Avenue. Along with the lack of compliance with the ADG cross ventilation control. Further development is required to provide a building form that responds to this site and provides an acceptable level of amenity to its future residents. The proposal should be developed to:

- *Reduce building height in the northern portion of the site to more closely comply with the 18m height limit.*
- *Provide an active, well-integrated frontage to College Avenue.*
- *Develop an approach to access and circulation that provides strong, clear separate addresses and simple wayfinding to the residential and commercial components of each building (at College Avenue and Cygnet Avenue) and supports activation of Moolawang Place.*
- *Comply with the minimum amenity standards of the ADG.*
- *Develop a clear vision for the COS to provide the basis for detailed designs.*
- *Address problems with POS in relation to functionality, amenity and privacy impacts.*

The detailed considerations of the DRP review and the applicant's design response are included in the Statement of Environment Effects (SoEE) section 4.6.1 by City Plan on behalf of the applicant, dated March 2019 **Attachment 4**.

Design Review Panel (Meeting 2)

Following the briefing with SJPP, minutes were provided, Item 6 required the amended plans to be reconsidered by the Design Review Panel prior to any determination meeting.

The application was considered by Council's independent Design Review Panel for a second time on 26 March August 2019. A copy of the DRP 2 review is found within **Attachment 5**.

The summary and recommendations of the DRP were as follows:

Significant and positive developments have been made to the proposal, which now responds more appropriately to its immediate context and provides a more active connection to the public domain. However, further refinements are recommended to provide a better relationship with the immediate context of the site, improve amenity and demonstrate compliance with the minimum requirements of the ADG:

- *Refine northern edge of building to reduce visual bulk.*
- *Further development of northern residential lobby.*
- *Further development of through site link.*
- *Further refinement of the buildings interface with Moolawang Place.*
- *Explore the potential to reduce vehicle service access to a single point of access.*
- *Demonstrate ADG building separation compliance with existing neighbouring buildings.*
- *Further information to be provided to demonstrate compliance with ADG solar access requirements.*

The detailed considerations of the DRP 2 review and the applicant's design response by City Plan on behalf of the applicant, dated 15 May 2019 is found within **Attachment 6**.

Council has reviewed the response and the assessment of the overall proposal. Council is satisfied that the development is now consistent with the desired future character of the Shellharbour City Centre and the relevant provisions within State Environmental Planning Policy No. 65.

5. Description of Development Proposal

The development comprises of the following:

- 7 Business Premises tenancies at lower and ground level with business floor area of 1,537.8m² (the separate tenancy floor areas range from 121.2m² – 360.6m² in area).
- 77 residential apartments, having Gross Floor Area of 4,919m², with a mix of:
 - 15 x 1-bedroom apartments (19.4%);
 - 50 x 2-bedroom apartments (64.9%), and
 - 12 x 3-bedroom apartments (15.5%).

A total of 16 of the units are proposed as adaptable housing (20.7%).

Earthworks to create two basement levels. This will create parking area for predominately the residential component of the development. It includes the following; 77 residential spaces (1 per apartment), 16 visitor parking spaces distributed throughout, 4 motorbike & 49 bicycle spaces. The business premises will access the parking area within the adjoining Council Mid-Block public parking area. See **Figure 5 & 6** below.

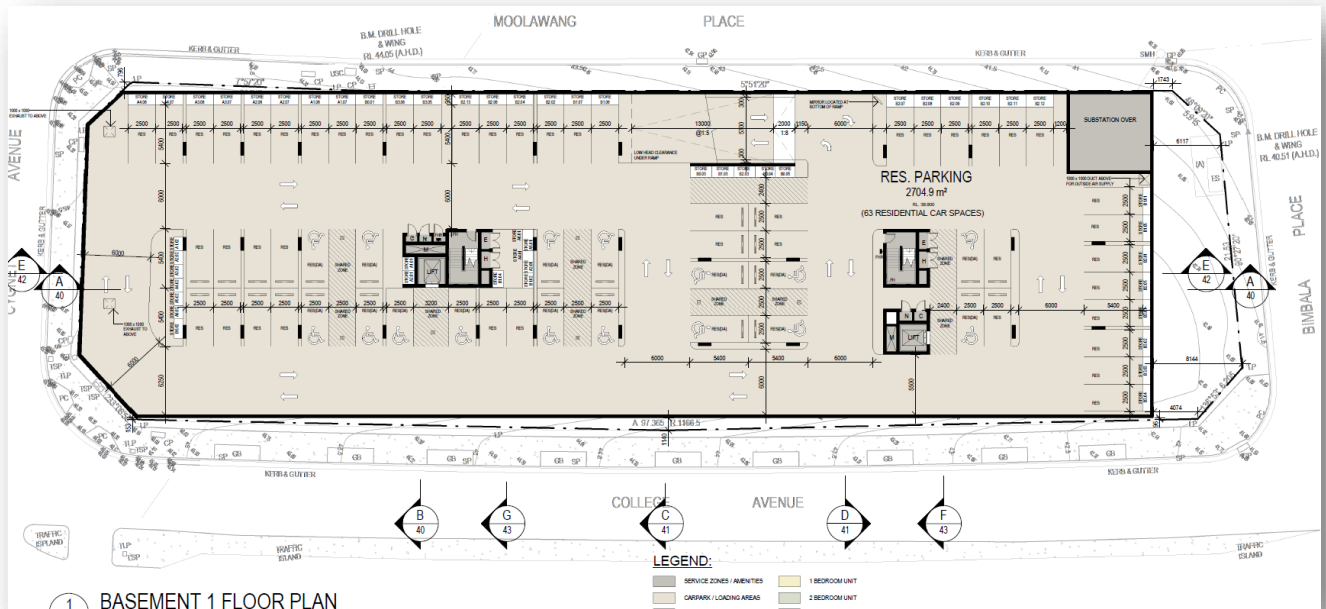


Figure 5 – Basement 1 Floor Plan

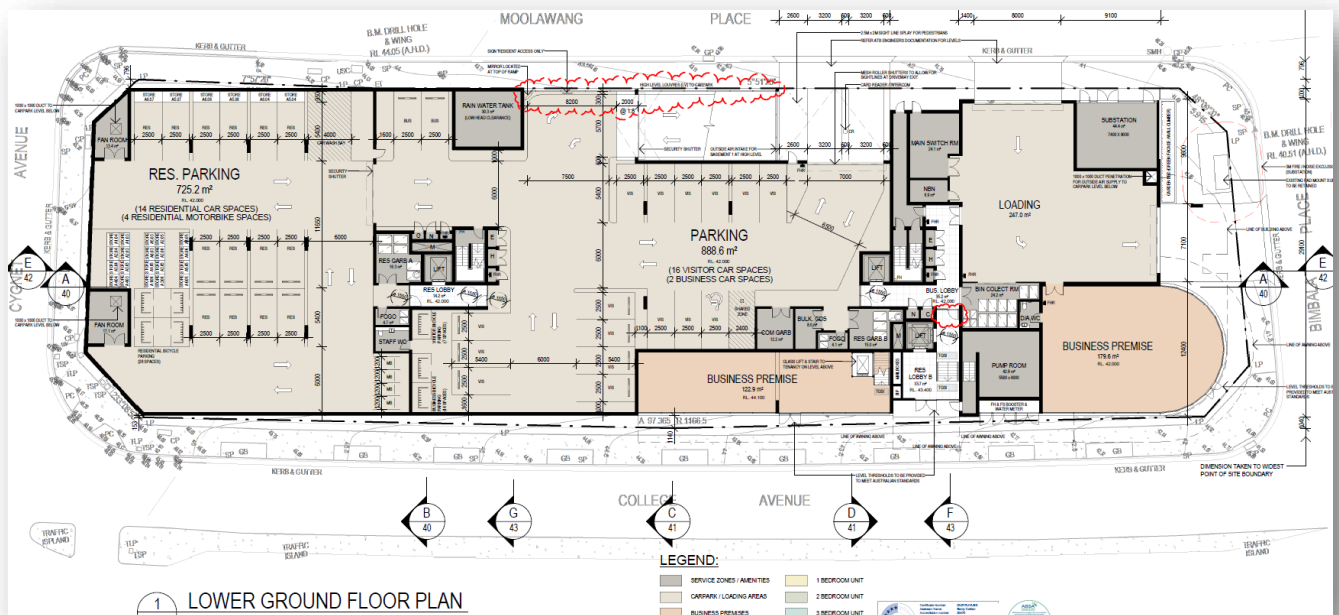


Figure 6 – Lower Ground Plan

The business tenancies are likely to include general types given the variation in size and proximity to adjoining Stockland Shopping Centre. See **Figure 6 above** and **Figure 7 below**:

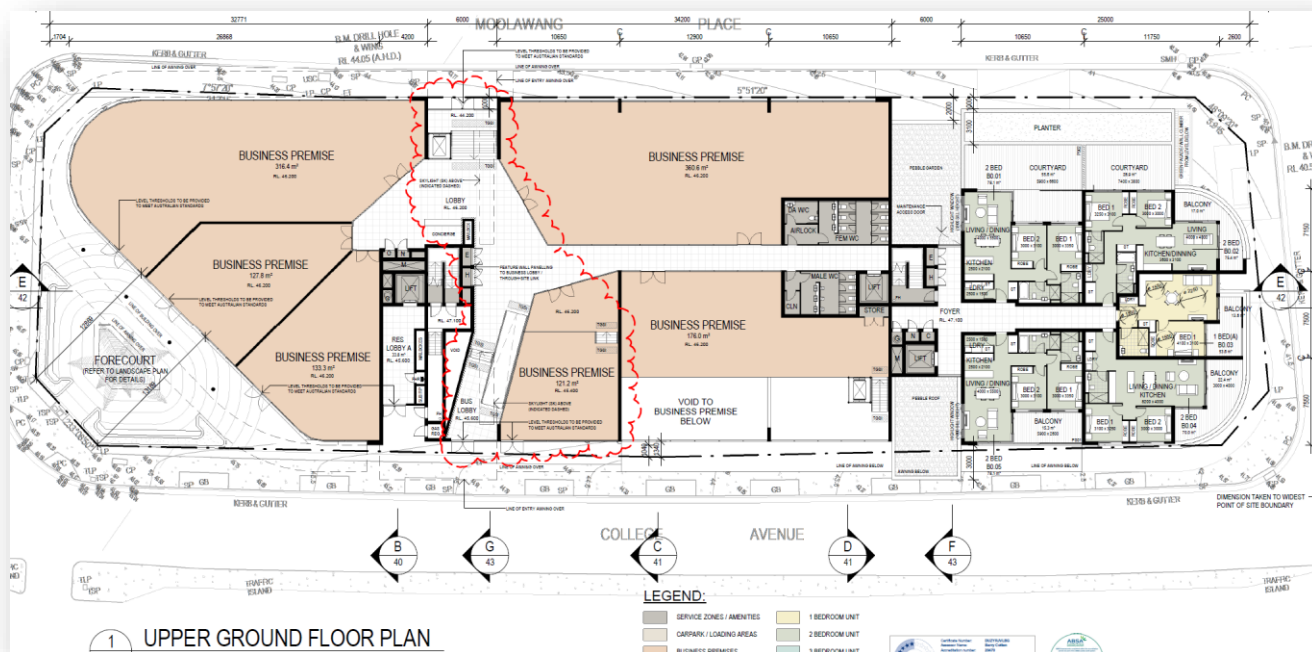


Figure 7 – Upper Ground Floor Plan

There are two common open space areas servicing the residential component, at podium roof levels (level 4 and level 6) totaling 1,379.4sqm (42.9%). See **Figures 8 and Figure 9 below**:



Figure 8 – Level 4 Plan Including Communal Open Space

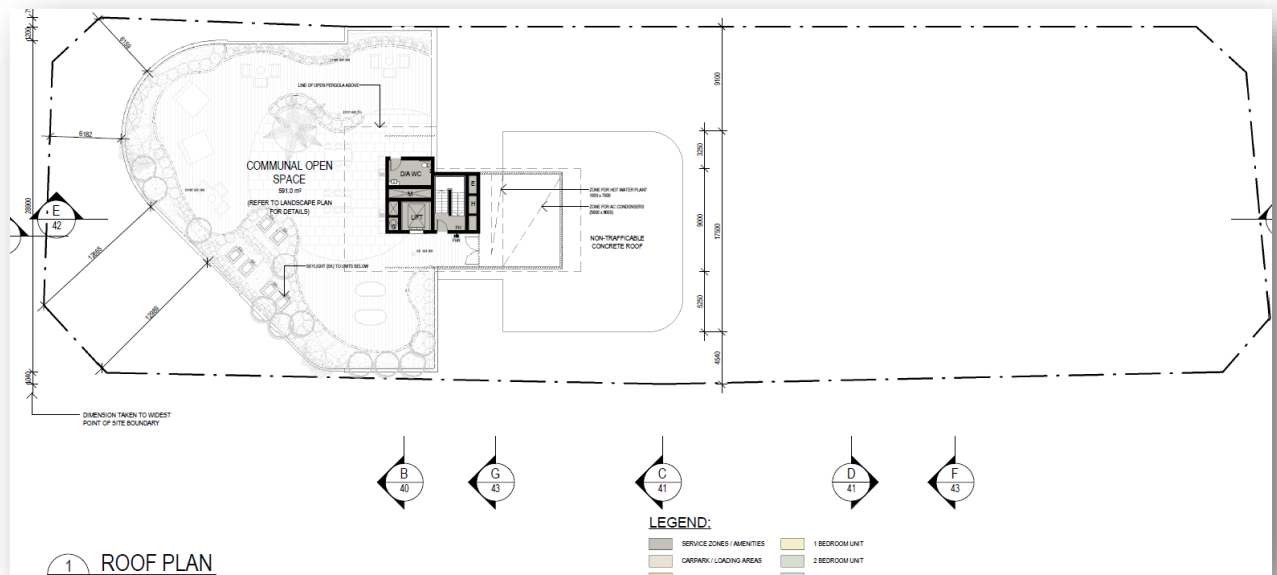


Figure 9 – Roof Plan above Level 6 Including Communal Open Space

The maximum height of the building will be 27.54m. See **Figure 10** below.



Figure 10 – College Avenue Elevation Showing Maximum Height to RL73

The area of the development site is 3,213m². Site outline in black below – Figure 11.



Figure 11 – Site Plan Showing Boundaries In Black

The total Gross Floor Area is 9,407.6sqm, with FSR or 2.93:1 (**Figure 12** and **Figure 13** below).

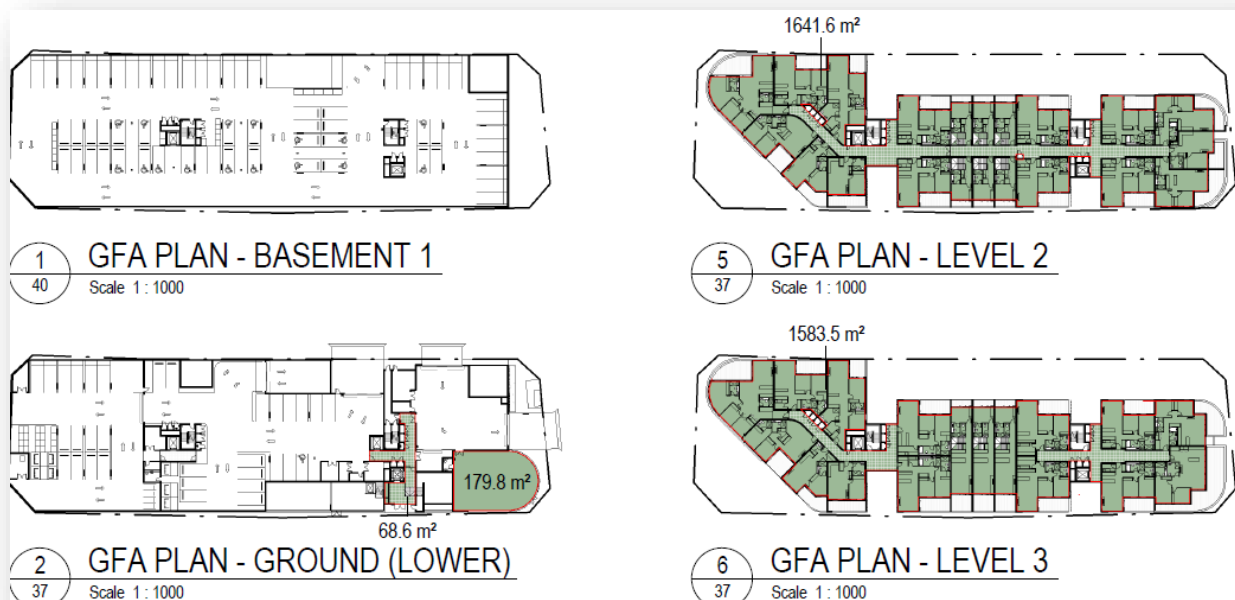


Figure 12 – GFA B1, Ground (Lower), Level 2 & Level 3

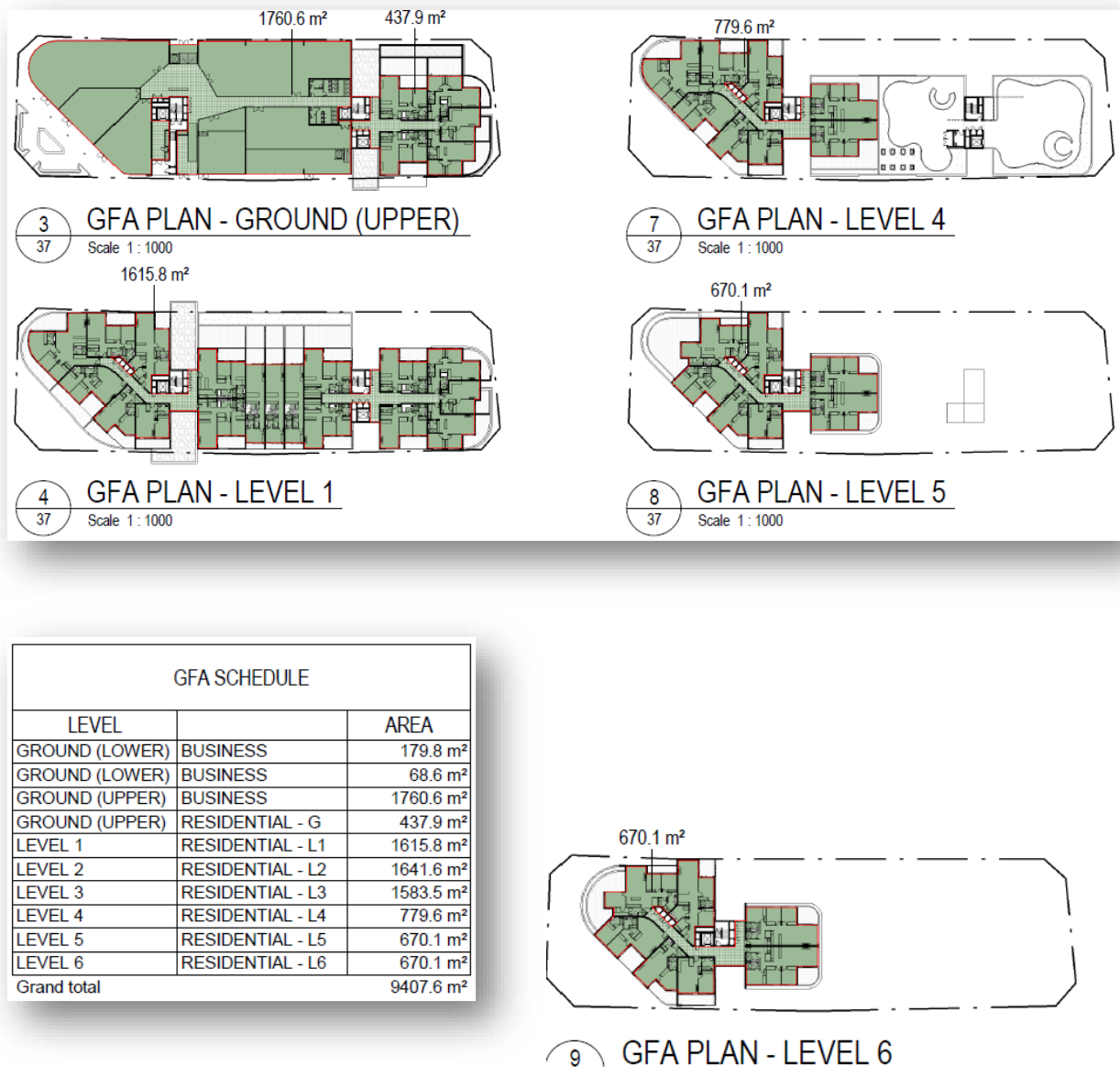


Figure 13 – GFA Ground Upper, Level 1, Level 4-6 & GFA Schedule

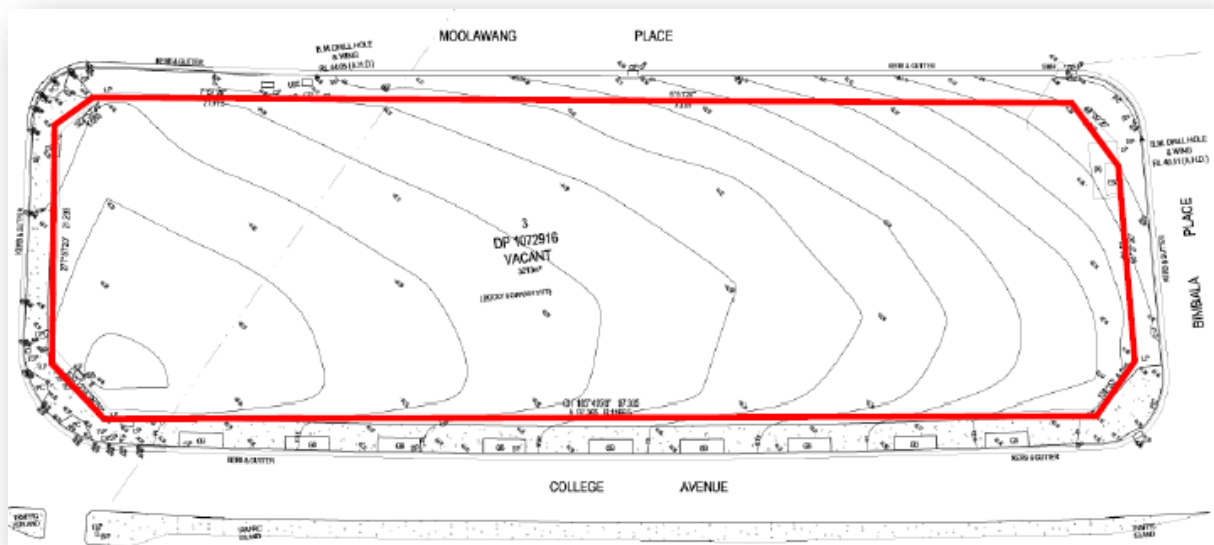


Figure 14 - Extract from Site Survey – Indicates Site Boundary (Red Line)

Waste Management

The applicant has provided a Waste Management Plan by Elephants Foot waste which identifies a private waste contractor is to be engaged to collect the waste from the site.

Separate waste rooms have been provided for the residential and commercial uses within the basement. Residents of the apartments will transfer waste via separate waste chutes for general, recycling waste and FOGO with up to two collections per week (general). Business tenants will dispose of their waste directly into the bins located in the business waste rooms also in the basement.

All waste bins for collection will then be moved to the northern part of the basement to a designated room. The collection truck will enter from the western side of the building via Moolawang Place and out at the northern side onto Bimbala Place, all in a forward direction.

This solution will result in the waste collection being collected wholly within the site and not affect the function of immediate public areas. Relevant conditions of use have been applied.

Matters including the acoustic and operational management requirements for waste servicing have been discussed within this report and conditions recommended where appropriate.

6. Description of Land and Locality

The land is described as Lot 3, DP 1072916, being 16 College Avenue and is located at the northern end College Avenue approximately 250m south of the intersection with New Lake Entrance Road, within Shellharbour City Centre (Precinct D). The site is rectangular and has four direct street frontages, adjoining development includes the western side of Stockland Shopping Centre, Shellharbour City Council Civic Centre Building to the south, two Mixed Use developments at the north and west along with a large mid-block parking area.

The site is currently vacant and has no form of previous built development. There are a number of other vacant sites within proximity to the site, including two others also under development application proposal.

Site Attributes

- The land does not contain an item of environmental heritage under the *Heritage Act 1977*. There are no locally listed heritage items identified in *Shellharbour Local Environmental Plan 2013* within vicinity of the site;
- The land is not mapped as having ecological value having regard to the relevant NSW State and Commonwealth legislation;
- The land is not known to be significantly contaminated, subject to a management order, subject to an approved management proposal, an ongoing maintenance order, or a site audit statement within the meaning of the *Contaminated Land Management Act 1997*.

7. Statutory Development Assessment Framework

The consent authority is required to take into consideration the matters referred to in section 4.15 of the *Environmental Planning and Assessment Act 1979* as are of relevance to the development the subject of the application.

Relevant matters for consideration under s4.15(1)(a) are:

- *State Environmental Planning Policy (State and Regional Development) 2011*;
- *State Environmental Planning Policy No. 55 – Remediation of Land*;
- *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development*;
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*;
- *Shellharbour Local Environmental Plan 2013*;
- *Shellharbour Development Control Plan 2013*;
- *Shellharbour Development Contributions Plan 2013*;
- The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality;
- The suitability of the site for the development;
- Any submissions made in accordance with the *Environmental Planning and Assessment Act & Environmental Planning and Assessment Regulation (the Regulation)*, and
- The public interest.

8. Environmental Planning & Assessment Act 1979 (the Act)

In determining a development application, a consent authority is to take into consideration matters referred to in section 4.15(1) of the Act as are of relevance to the development the subject of the application:

9. Section 4.15 (1) (a)(i) - Environmental Planning Instruments

a. State Environmental Planning Policy (State and Regional Development) 2011:

Schedule 7- Regionally significant development - (2) "General development over \$30 million" Development that has a Capital Investment Value (CIV) of more than \$30 million'

The CIV submitted upon lodgement with this DA included a construction value of \$41.73M. The proposal as amended in a revised CIV has been reduced to \$34.42M. Therefore, the development is categorised as Regionally Significant Development. Under Part 4, Division 4.2, Section 4.5(b) of the Act the Regional Planning Panel for the area (Southern) is designated as the Consent Authority.

b. State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

The aim of SEPP 55 is to provide for the remediation of contaminated land for the purpose of reducing the risk of harm to human health or environment and requiring that any remediation work meet certain standards and notification requirements.

A Detailed Site Investigation (DSI) was provided by Aargus Pty Ltd. The report has been reviewed in detail by Council's Environment section. The conclusions made are appropriate in so far as the site being fit for purpose and with no requirement for remediation.

The relevant conditions have been applied relating to matters in the event that contamination is encountered.

Based upon the above, the proposal will not undermine the Objectives of this Policy.

c. State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65)

The development has been assessed against the nine principles (below) and the Apartment Design Guidelines (ADG's) which are found at **Attachment 3**.

Principle 1: Context and Neighbourhood Character

The context for the proposal is a City Centre identified as Shellharbour City Centre. The site has four direct road frontages and connects with existing developments on all sides, along with an open parking area which services those properties. The most prominent adjoining development is the Shellharbour City Council Civic Centre adjoining to the south, this is the end additional height in the proposal has been concentrated. The proposal also provides forecourt area mirroring the adjoining forecourt of the Civic Centre site.

The increase in height has been established through a detailed urban design analysis and multiple reviews by the Shellharbour Design Review Panel (SDRP). This process has clearly identified that the site is unique in the locality and is able to accommodate additional height at the southern end, with the benefits of this outweighing any potential negatives.

The uneven shape of the site with a much narrower northern elevation, has resulted in a design that aims to maximise solar access to the eastern side for the apartments fronting the primary elevation being College Avenue, located above the business spaces at lower & upper ground level.

The building has been designed to fit the site and has an over complying and outstanding amount of Communal Open Space (COS) at the roof top of corresponding parts of the building.

Due to harsh geological nature of the site, being predominantly rock, there is only one small section of deep soil provided to the northern elevation. This is not out of character given two adjoining mixed used developments with shop top housing provide no deep soil plantings.

The proposal provides a through site link to enable users of the site to connect to different parts of the building along with adjoining service such as mid-block parking area and Stockland Shopping Centre.

The contextual benefits for residents including panoramic views of water/escarpment areas and public domain (including outstanding rooftop communal open space and linkage to adjoining services including Stockland Shopping Centre) will outweigh any potential conflicts relating to strict non-compliances with the ADG.

Principle 2: Built Form and Scale

The built form will provide for apartments that meet the needs of residents in this city center location and without negatively impacting on the surrounding locality. In addition, the built form is capable of responding to the exiting setting without disrupting the existing scale and density.

The height variation sits over approximately 30% of the site and then transitions into sections that ultimately comply with the development standard. This has created a density that is more proportionate with such a location and other recent development within the sites vicinity.

The proposal has benefited from a rigorous assessment process, including pre-lodgment advice and two Design Review Panels. This process resolved that the additional height to the southern section of the site could be considered and won't otherwise result in inappropriate built form and scale outcomes.

A Clause 4.6 'Exception to Development Standards' statement, which justifies this non-compliance, has been provided by the applicant and is addressed in further detail elsewhere in the report.

While the design does not comply with the requirement for natural cross ventilation, information provided by the applicant has demonstrated openable vents throughout the design that will achieve compliance with the objectives and a condition to support these updates has been included.

The building whilst strictly not complying with the 3 hours direct sunlight between 9.00am-3.00pm, will benefit from ample solar access to its longest façades (east & west) when extending those time by only 1 hour either way or the average amount of sunlight during the listed period.

The proposal meets the required 12m separation requirements between adjoining residential properties, which has been achieved through a site specific design that's not the typical boundary to boundary type development.

Principle 3: Density

The density proposed includes a mix of apartment types ranging from 1 to 3 bedrooms with a variety in size and amenities including the amount of bathrooms.

The proposal has an FSR of 2.93:1 which is appropriate for a key city centre location, on a site that is unique in size and orientation.

Principle 4: Sustainability

The provision of 77 apartments on the site is generally consistent with local and regional planning strategies which seek to locate housing within centres with access to transport, jobs and services.

The apartments have been designed having regard to thermal performance, provision of

reasonable amenity to occupants and therefore an efficient use of energy supply.

The inclusion of an open forecourt area with landscaping, mirroring that of the adjoining Civic Centre provides visual relief to the massing of the building at the primary interface where there's additional height. This design theme is reflected in other part of the development where the direct interface has been considered and proposal designed accordingly.

It is noted that a Section J report has been commissioned and that it includes a variety of requirements in regard to the environmental management and monitoring of the building.

Principle 5: Landscape

The landscape design provides for a harmonious setting for residents to enjoy the two large roof top COS, which considerably exceeds the minimum area. Whilst these areas don't include any deep soil area it is noted that residents can access the wider developments and public domain provided in Shellharbour City Centre and surroundings including parks and recreational reserves. In this context the residents will generally be reliant upon the COS located in this development and supplement this with the wider public domain context for their exercise and enjoyment which overall will provide a high level of amenity.

Principle 6: Amenity

The wider context of Shellharbour City Centre includes a range of opportunities for connectivity to desired services and amenities, combined with the size and scale of COS provided on the rooftop of the proposal on this site.

Appropriate room sizes and shapes are provided and supported by reasonable access to sunlight and ventilation, sufficient storage, efficient layouts and service areas.

In terms of acoustic amenity it is noted that a garbage chute is included in this design and that acoustic information supporting its design not provided. This is an important internal noise generating element that should be addressed. It is recommended that a condition be imposed that goes to this matter to prevent unreasonable noise impacts throughout the structure from any chutes.

Principle 7: Safety

The design includes corridors that are long, being 61.35m (northern arm of building), however, plans include windows to the southern side of that corridor that will provide for light throughout the day and could also be adapted for improved natural cross ventilation throughout the building.

All building entry points are clearly defined from the public domain. A clearly defined through site link (College Avenue to Moolawang Place) has been provided with ample width and size that ensures safe access. Externally the design provides no harsh corner treatments, which could otherwise result in blind corners, rather a site specific design that turns all corners resulting with appropriate pedestrian consideration and movement.

The public spaces are clearly defined and distinct from private and communal open space. They will be well lit and avoid dark, dead end spaces that would attract anti-social behaviour.

Principle 8: Housing Diversity and Social Interaction

The mix of apartment types and sizes is reasonable in context including no studio apartments. The design adequately considered the promotion of social interaction, having outstanding and

unrivalled COS at rooftop level and generously sized lobby with through site linkage to the public domain. The proposal equally considers public and private domain of the residents.

Active street frontages have been provided at ground levels, providing opportunities for a broad range for residents to interact with. Connectivity to adjoining sites has been considered to ensure access to required services and places of larger public interaction including Stocklands Shopping Centre.

Principle 9: Aesthetics

The treatments and finishes are of a high quality and suited to the location and will provide for consistency with adjoining developments. The proposal contributes to the desired future character of the area for similar sites that are yet to be developed or may be redeveloped to a similar form.

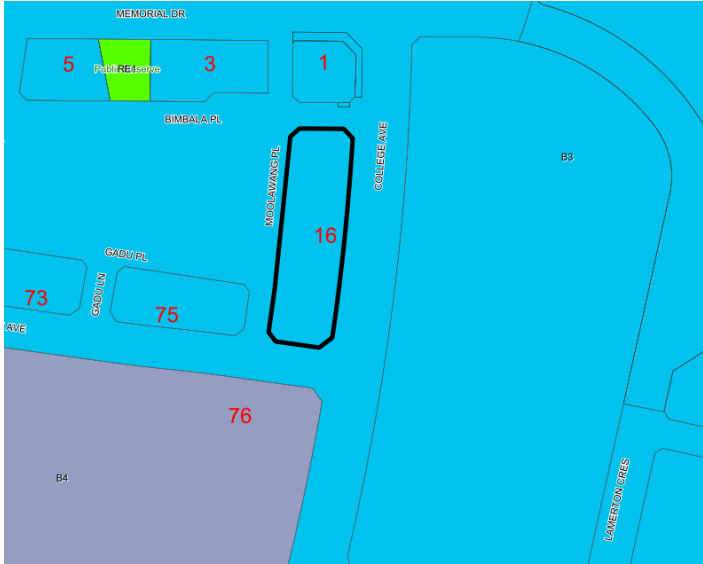
d. State Environmental Planning policy (Building Sustainability Index: BASIX) 2004 (SEPP BASIX)

The required BASIX Certificate has been submitted with the DA and relevant conditions requiring the fulfilment of commitments will form part of the development consent. In this regard the aims of the Policy have been satisfied.

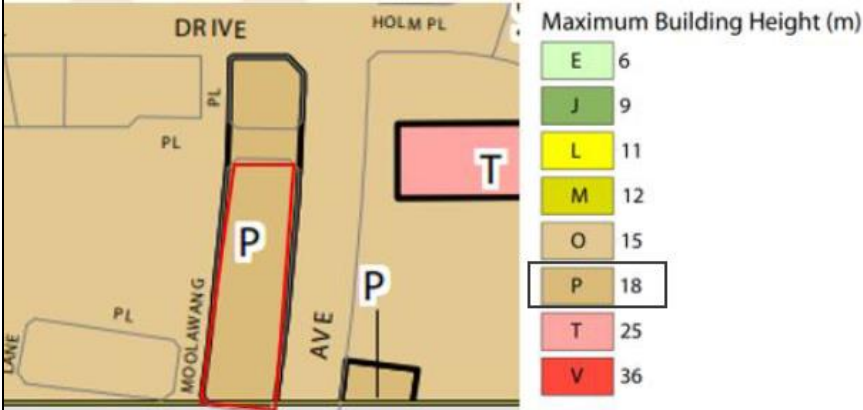
e. Shellharbour Local Environmental Plan 2013 (SLEP 2013)

Part 2 Permitted or prohibited development & Land Use Table

<p>Development Characterisation</p>	<p>business premises means a building or place at or on which:</p> <ul style="list-style-type: none"> (a) <i>an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or</i> (b) <i>a service is provided directly to members of the public on a regular basis,</i> <p><i>and includes a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.</i></p> <p>Note: Business premises are a type of commercial premises—see the definition of that term in this Dictionary;</p> <p>Commercial Premises means any of the following:</p> <ul style="list-style-type: none"> (a) <i>business premises,</i> (b) <i>office premises,</i> (c) <i>retail premises</i> <p>Shop Top Housing means one or more dwellings located above ground floor retail premises or business premises.</p>
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<p>Land Use Zone</p>	<p>The site is identified on Land Zoning Map – Sheet LZN_023 as B3 Commercial Core:</p> <p>B3 Commercial Core</p> 
<p>Zone Objectives</p>	<ul style="list-style-type: none"> <i>To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.</i> <i>To encourage appropriate employment opportunities in accessible locations.</i> <i>To maximise public transport patronage and encourage walking and cycling.</i> <i>To strengthen the role of the Shellharbour City Centre to ensure that it continues to develop as a major regional centre with retail, entertainment, commercial, cultural and residential uses.</i> <i>To allow for a limited range of residential accommodation while maintaining retail, business or other non-residential active uses at street level</i>
<p>Is Proposal Permissible In Zone?</p>	<p>Business Premises & Shop Top Housing are listed as permissible development in the B3 Commercial Core land use zone subject to consent.</p> <p>As retail premises are allowable under Shop Top Housing, conditions will allow retail premises to be included in the approved land uses onsite.</p>
<p>Is Proposal Consistent With Zone Objectives? (Clause 2.3(2))</p>	<p>The consent authority must have regard to the objectives for development in the zone in the determination of a development application.</p> <p>The proposed development will be consistent with the objectives in so far as offering compatible residential uses together with retail and business premises.</p> <p>It is considered therefore that the proposal is consistent with the objectives of the land use zone.</p>

Principal Development Standards (Part 4)

Development Standards Applicable		
Part 4	Development Standards	How Does The Development Comply (Where Applicable)
Clause 4.3	Height of Buildings Height of Buildings Map	<p>Development Standard maximum height 18m.</p>  <p>The maximum building height is 27.54m, which exceeds the 18m development standard.</p> <p>The non-compliance has been assessed against the objectives of the development standard for height and in accordance with clause 4.6(4)(a)(ii). This assessment is found at section 4.6 below.</p> <p>In short the assessment below concludes that that compliance with the development standard is unreasonable or unnecessary in the circumstances of the specific proposal.</p>
Clause 4.4	Floor Space Ratio Floor Space Ratio Map	N/A – No FSR

Clause 4.6 – Exceptions to Development Standards

Clause 4.6 provides flexibility to vary the development standards specified within the LEP, where it can be demonstrated that the development standard is unreasonable or unnecessary in the circumstances of the case and where there are sufficient environmental grounds to justify the departure.

The development seeks to vary clause 4.3 which has a height standard for the site as 18m. The maximum exceedance of the proposal is 9.54m (53% variation). This area covers approximately 215m², representing less than 1% (0.66%) of the site area. The main building form that exceeds the 18m, is the area covering 2 residential levels, to a height of 24.3m - RL68.8 (6.3m exceedance, being 35%), this area covers approximately 970m², representing 30.1% of the site area.

The following figures illustrate the extent of the variations.

Figure 15 illustrates the height variation in yellow from the College Avenue section:

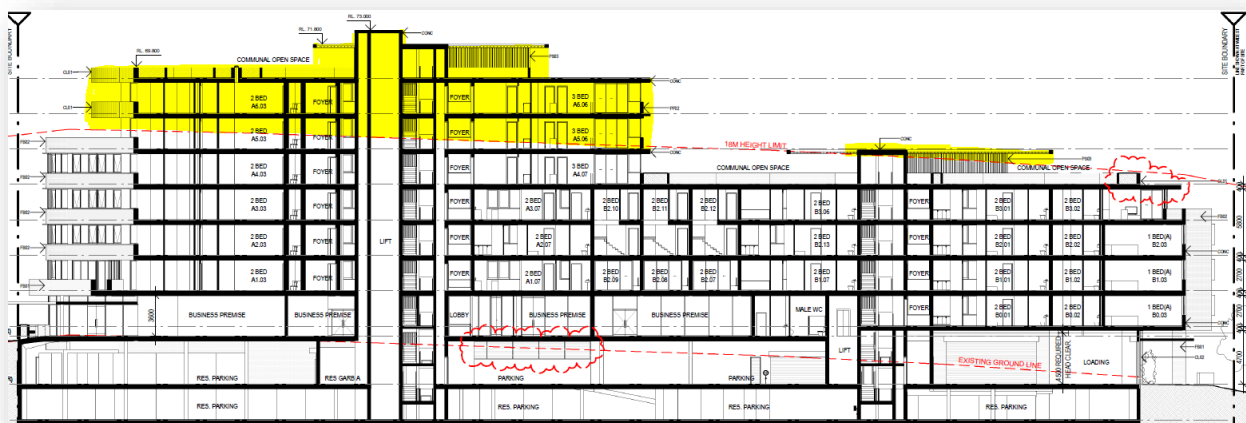


Figure 15 – Section Of Development From College Avenue

Figure 16 illustrates the height variation in yellow from either end of the development:

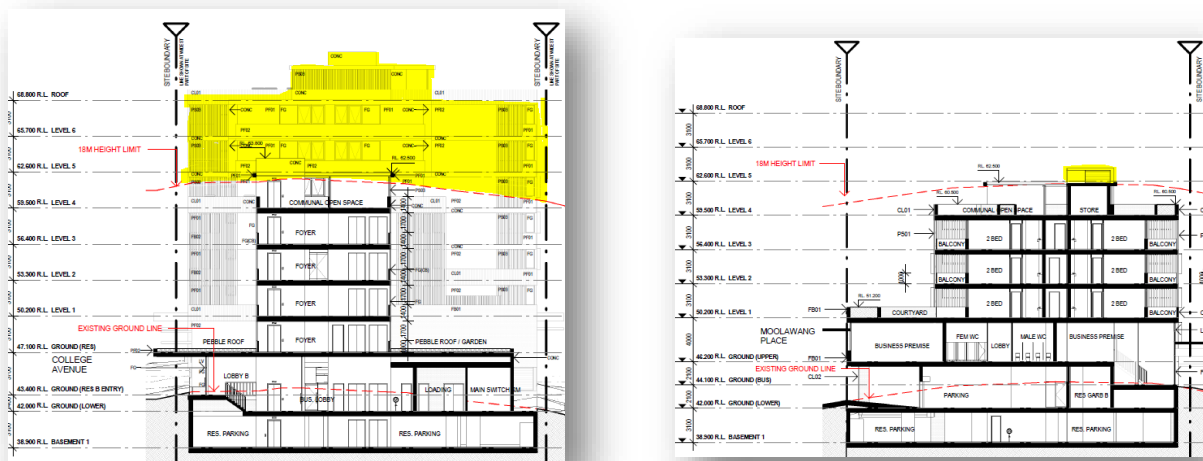


Figure 16 – Cross Sections Of Development

In considering the unreasonableness of the development standard together with the need to maintain the proposed height the following assessment has been made.

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

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

An assessment has been made on the objectives of the development standard relating to building height. They include:

- a. Clause 4.3(1)(a) to ensure the height of buildings complements the streetscape, rural or natural scenic character of the area in which the buildings are located

The character of the area lends itself to a higher density, which has seen increased building height in certain locations and a building form to a City Centre environment that is almost at completion.

The site is unique in orientation and form. It is situated within the heart of the Shellharbour City Centre, with frontage to the main local road. This development is appropriate would have many benefits for the locality.

Importantly, the proposed building height is responding to the current and emerging character of the area and it can be demonstrated that the proposed building height responds to this setting.

The below provides a summary of the standards and approvals granted of varying building heights in the locality:

- The Civic Centre Building located at 76 Cygnet Avenue as shown in **Figure 17** was approved by the SRPP (DA0205/2014 – 2014STH014), has a Maximum exceedance of 9.5m (overall height 24.5m) to the 15m limitation at the north western section. This is represented by a 63.33% variation.

The development sits between the Civic Centre building to the south which has a height of over 25m and Stockland Shopping Centre to the east that has a maximum 25m height limit. Proximity: The site is directly adjacent to the subject property (as show below in **Figure 17**).



Figure 17 – Adjoining Civic Centre Development Site Location at 76 College Avenue

- The building currently being constructed at 4-6 Benson Avenue, Shellharbour City Centre as shown in **Figure 18** was approved by the SRPP (DA0029/2016 – 2016STH010) which had a maximum exceedance of 2.95m (overall height of 17.95m) to the 15 limitation. This is represented by a 19.6% variation.

Proximity: The site is 160m south east of the subject property (as shown below in Figure 18).



Figure 18 – Mixed Use Development at 4-6 Benson Avenue

Figure 19 shows the location of a senior living development at Wallaroo Drive. This building was approved by the SRPP (DA0267/2014 – 2014STH015). The maximum exceedance of the building is 5.8m (overall height of 14.8m) to the 9m limitation. This is represented as a 64.44% variation.

Proximity: The site is 300m south east of the subject property (as shown below).



Figure 19 – Senior Living Development Site Location

The above indicates varying heights within the sites vicinity and the proposed exceedance is consistent with the current and emerging character of the area.

In addition to this emerging character, the site shown in **Figure 4** is the remaining part of the vacant Stockland Shopping Centre to the east of the parent lot and sits somewhat higher (4m) than the subject lot. This part of the site has an 18m height limit and has a RL of RL50.5. The highest point of the subject land is approximately RL46.5.

Therefore, the adjoining site has the potential to have a building height (without any variation) of RL68.5 while the subject site is proposing a main building height of RL68.8, with only the lift void extending above this to RL72. If the building height was to reduce to a compliant height to RL64, such a difference in building height between the two sites could create a break in the built form continuity in such a prominent location of the city centre.

The increased building height is generally limited to the southern end of the building, which is seen as the most prominent part of the site. This has been established through a detailed urban design analysis by the applicant and generally supported through a rigorous Design Review Panel process. The overall appearance of the building height is not considered unreasonable in the context of the development of the emerging City Centre.

Should compliance be enforced with the development standard, it may unreasonably impact on the more recently accepted character rather than the proposed building height which is more consistent with the areas emerging built form.

b. Clause 4.3(1)(b) to ensure the height of building protects the amenity of neighbouring properties in terms of visual bulk, access to sunlight, privacy and views,

The site has a steep gradient running from a high point of RL46.6 at the corner of College & Cygnet Avenue (Civic Centre building end) to the lowest point of RL41.09 at the opposite corner being Bimbala and Moolawang Place (adjoining 3 storey Mixed Use Development). This results in an overall fall of approximately 5.51m.

Therefore, there is a large difference in levels between the Civic Centre building end which has the proposal increased height and the lower end which is adjoining a complying three storey Mixed Use Development. The proposal is transited down with the fall of the site to be uniform with neighbouring developments. This is shown in **Figure 20**.

Given the gradient change and site orientation, impacts of visual bulk, privacy and views have reduced outcomes, however, access to sunlight, becomes of greater benefit as the transitions down along College Avenue to finally the northern end of the site where it's in the lowest form.

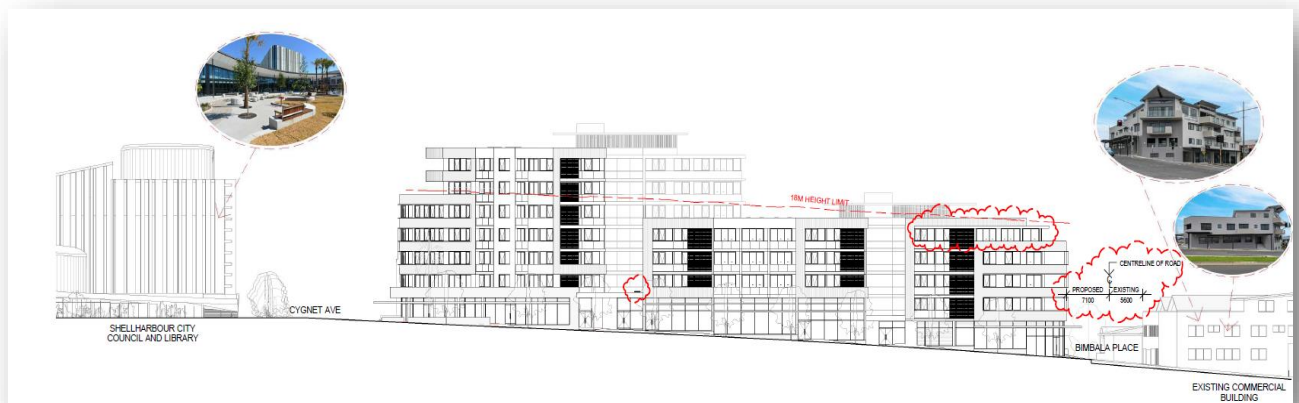


Figure 20 – College Avenue Streetscape Montage (Eastern Elevation)

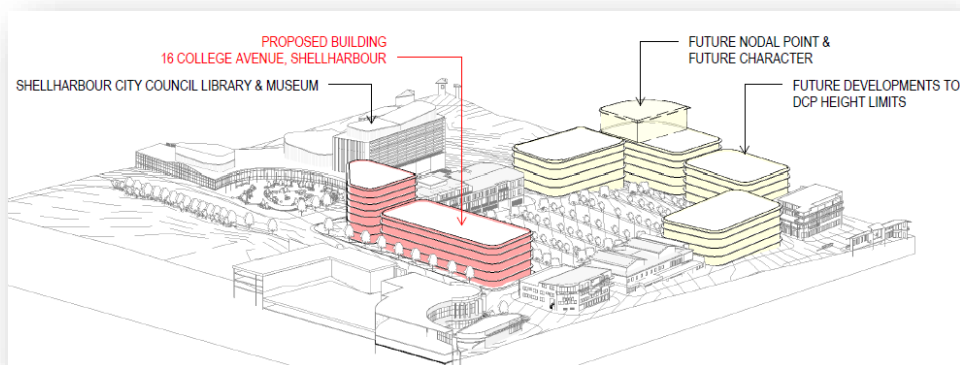


Figure 21 – Contextual Analysis – Shellharbour City Centre

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

The shadow diagrams (below) illustrate the proposed development would protect the amenity of neighbouring properties in relation to sunlight, despite noncompliance with the height standard. The orientation and design of the building is such that its highest part would be at the southern end of the site. The adjacent building, 75 Cygnet Avenue, is a mixed-use building consisting of commercial units at lower levels and six (6) residential dwellings at second floor level only. This building would only be overshadowed between 9am and 10am in winter and would continue to receive uninterrupted sunlight between 10am and 3pm in winter. As demonstrated in Figure 9, a building with compliant height would continue to overshadow the adjacent mixed-use building, 75 Cygnet Avenue, between 9am and 10am in winter. Similarly, a compliant building would overshadow part of the Shellharbour City Council building between 9am and 10am in winter. Therefore, despite the noncompliance, the variation in height will result in only negligible additional adverse overshadowing impacts on these buildings, as shown in Figure 9.

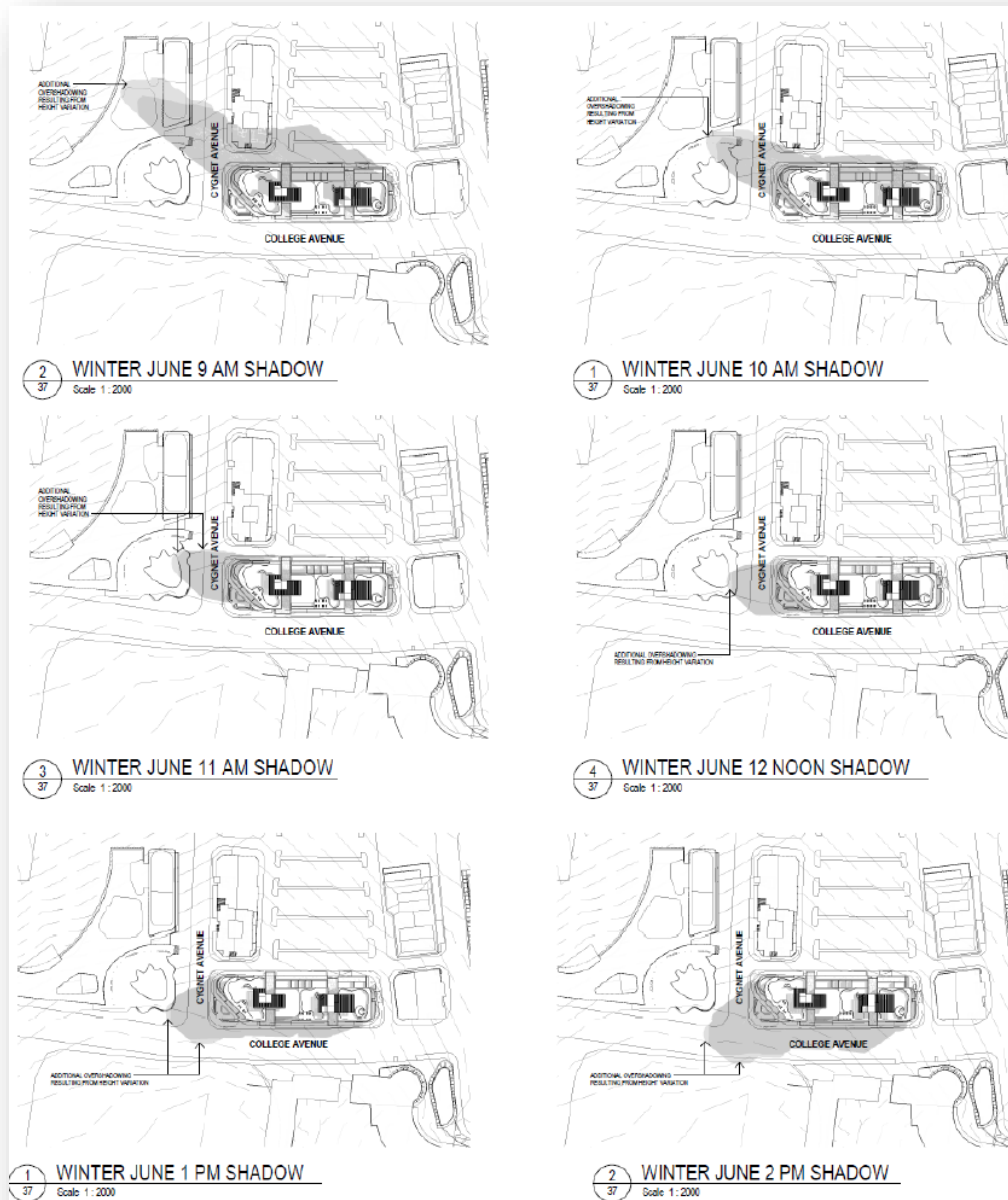


Figure 22 – Shadow Diagrams (Referred To By Applicant As Figure 9 Above)

The proposed building would result in shadowing of parts of the Civic Plaza landscaped area in front of the Civic Buildings, between 9.00am and 1.00pm in winter. However, as demonstrated in Figure 9, the additional shadowing is negligible and regardless, a compliant building would result in an element of overshadowing of the Civic Plaza. The majority of the Civic Plaza would not be overshadowed ensuring access to sunlight and the proposal would not result in unreasonable amenity impacts.

The only residential dwellings located close to the site are second-floor level dwellings located at 75 Cygnet Avenue, to the south west of the site, and to the north of the site, where there is a mixed-use building comprising of residential dwellings. There are no nearby residential dwellings located to the south or east of the site. Therefore, there is no development to the south or east of the site affected by the height.

To the north of the site is a mixed-use building comprising of residential dwellings. The proposal complies with ADG setbacks in this regard and would protect the amenity of occupants of this neighbouring building. In relation to the residential dwellings located at 75 Cygnet Avenue, as demonstrated in Figure 9, these dwellings would receive two hours of sunlight between 9am and midday in winter and there would be no further overshadowing to these dwellings as a result of the contravention of the height of buildings standard. Therefore, despite the noncompliance, the variation in height will not result in any additional overshadowing impacts on these dwellings, as shown in Figure 9. The variation of the height standard does not result in any additional overlooking of neighbouring properties.

As it can be seen in **Figure 22**, there is no unreasonable overshadowing of the residential properties adjoining in the mixed use developments to the north and west or the Civic Centre forecourt area as a result of the additional height of the building during the winter solstice. The impacts of the development are not considered unreasonable in the circumstances of the use of the land concerned and the impacts that would otherwise arise from a height compliant development.

In this regard, this demonstrates that compliance with the height development standard is unreasonable and unnecessary in context of the likely impacts considered as part of this principal.

c. *Clause 4.3(1)(c) to protect areas of scenic or visual importance.*

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

Figures 23-26 below show the location of the development in context with the existing built form and locality. Together these provide a level detail that demonstrates, the additional height in the development doesn't unreasonably increase the impact to areas of scenic or visual importance.



Figure 23 – Views Looking To the West Above Benson Avenue, Showing The Outlying Escarpment Visible.



POI 3 - RL 65.05 A.H.D
(21m ABOVE SITE BENCHMARK)

Figure 24 – Views Looking To the North above College Avenue, Showing Lake Illawarra Visible.



Figure 25 – Views Looking North-West from College & Cygnet Avenue Intersection, Including the Existing Shellharbour City Civic Building.



Figure 26 – All-Inclusive Views from Shellharbour City Centre To Outlying Areas Including Lake Illawarra & The Escarpment

The proposal itself provides views of key scenic areas such as Lake Illawarra and escarpments to the west. This is consistent with other recent development in the locality.

On this basis it is considered that the development as proposed is satisfactory and compliance with the height standard is unnecessary and unreasonable in this instance.

2. Clause 4.6.(3)(b) That there are sufficient environmental planning grounds to justify contravening the development standard.

The applicant has provided the following justification:

In Initial Action Pty Ltd v Woollahra Council [2018] NSWLEC 2018, Preston J observed that in order for there to be 'sufficient' environmental planning grounds to justify a written request under clause 4.6, the focus must be on the aspect or element of the development that contravenes the development standard and the environmental planning grounds advanced in the written request must justify contravening the development standard, not simply promote the benefits of carrying out the development as a whole.

As discussed earlier, the aspect or element of the development that contravenes the development standard is the portion of the building above the 18m height limit which includes part Level 4, part Level 5, Level 6, the lift overruns and the communal landscaped areas on the roof. The majority of the building mass would be sitting below that height limit. In this regard the environmental impacts are negligible, as explained earlier in the discussion regarding privacy, overshadowing and visual impacts in Section 3. There are no unreasonable adverse environmental impacts associated with additional overshadowing or overlooking as a result of the proposed variation of the standard.

The proposal facilitates the provision of a public forecourt to the intersection of Cygnet Avenue and College Avenue, relating to and providing an extension to the Civic Plaza located opposite the site. The additional height to the building enables the creation of a focal point, as desired by the SDCP. The five storey street wall to the southernmost part of the building frames the streetscape and scenic character at the intersection of College Avenue and Cygnet Avenue while the seven storey element achieves the objectives of the Shellharbour DCP by creating a desired focal point on this key city centre site.

The visual impact of the variation on the principal adjacent roads, Cygnet Avenue and College Avenue, will be ameliorated for by the setback from the road way as a result of the proposed public forecourt and landscaping. The variation facilitates the redevelopment of the vacant site and provides dedicated public pathways and street activation to all boundaries of the site, which is presently not available. The proposal would result in a better planning outcome than if compliance were to be achieved, as it provides a development that meets the objective of the standard, while providing an extension to the Civic Plaza and a focal point for the site, as desired by the SDCP.

In terms of the objects (Section 1.3) of the Environmental Planning & Assessment Act, the provision of a public forecourt to the intersection of Cygnet Avenue and College Avenue, the provision of continuous commercial active ground floor frontage and the provision of a diverse housing mix in a sustainable city centre location is highly desirable. It promotes the orderly and economic use and development of land (s.1.3(c)) and good design and amenity of the built environment (s.1.3(g)). The environmental benefits of the public forecourt and focal design and height of the building, which is facilitated by the variation of the building height standard, greatly outweighs the negligible environmental harm resulting from the variation. In this regard we submit that there are sufficient environmental planning grounds to justify contravening the height of building development standard to the extent proposed in this application.

The site is identified a significant one within the heart of Shellharbour City Centre, that should be developed in its full potential for the greater benefit of the locality.

Environmental planning outcomes will be met as the proposed development is generally consistent with Council's vision for the Shellharbour City Centre. The proposal will provide a positive outcome for development on the site, including and importantly a clearly defined core to the city centre with an aesthetically acceptable built form outcome, without causing any unreasonably height impacts that could otherwise come from contravening the development standard.

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

The applicant states they have reasonably demonstrated in the documentation that the proposal is clearly consistent with the objectives of the development standard. Further to this it's been articulated in detail that the proposal is consistent with the zone objectives.

Obvious matters relating to protection of amenity to the surrounding residents, consistency with streetscape and its positive contribution to greater housing supply in the city centre and provision of jobs, add to the reasons why the development is in the public interest as proposed.

Additional Considerations

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

The case law expressed the view that there are five different ways in which an objection may be well founded, and that approval of the objection may be consistent with the aims of the policy. In considering the 5 tests together with the above discussion, the below is considered:

(i) The objectives of the standard are achieved notwithstanding non-compliance with the Standard

Consistency with the objectives of the standard, and the absence of any environmental impacts, would demonstrate that strict compliance with the height standard is both unreasonable and unnecessary in this instance.

(ii) The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;

As noted above, the current and emerging built form character dictates that compliance with the standard is unnecessary.

(iii) The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;

A reduction in building height will see a break in continuity of the existing built form and scale. Compliance is unreasonable in this instance and the underlying object would not be defeated.

(iv) The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and

As noted above, there are at least three (3) different sites within the subject site vicinity that have abandoned the development standards for building height. This theme provides evidence that the emerging character demands a built form and scale that the current planning controls had not been able to anticipate at the time.

(v) The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

Not applicable.

Summary and Conclusion

The above assessment has appropriately demonstrated, as required by Clause 4.6 of the *Shellharbour Local Environmental Plan 2013*, that:

- Compliance with the development standard would be unreasonable and unnecessary in the circumstances of this development;
- There are sufficient environmental planning grounds to justify the departure;
- The development meets the objectives of the development standard and is consistent with the objectives of the B3 Zone;
- The proposed development, notwithstanding the variation, is in the public interest and there is no public benefit in maintaining the standard and
- The underlying intent of the standard in so far as it relates to State and Regional Planning objectives will not be undermined in the granting of the variation.

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


The development is seen to be in keeping with the objectives of this clause, which are to provide an appropriate degree of flexibility in applying certain development standards to particular development, and to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Miscellaneous Provisions (Part 5)

Part 5 Miscellaneous Provisions		
Part 5	Local Provisions Applicable To Development And/Or Site	How Does The Development Comply (Where Applicable)
Clause 5.6 – Architectural Roof Features	<p>The objectives of this clause are as follows:</p> <ul style="list-style-type: none"> (a) to encourage variety in roof form and shape, (b) to ensure the design elements of the roof features complement the design of the building, (c) to ensure buildings enhance neighbourhood amenity and character. 	<p>Proposal is satisfactory as it shows required consideration in accordance with this section.</p>
Clause 5.10 – Heritage	<p>The objectives of this clause are as follows:</p> <ul style="list-style-type: none"> (a) to conserve the environmental heritage of Shellharbour, (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views, (c) to conserve archaeological sites, (d) to conserve Aboriginal objects and Aboriginal places of heritage significance. 	<p>The site does not contain any listed items or located within proximity to any that it would adversely impact on any.</p> <p>The site is also not located within a heritage conservation area.</p> <p>The applicant engaged Domonic Steele Consulting Archaeology who provide a detailed Due Diligence Aboriginal Archaeological Assessment (dated 26/01/2019).</p> <p>Consequently the proposal is satisfactory with this section including the objectives.</p>

Additional Local Provisions (Part 6)

Part 6 Additional Local Provisions		
Part 6	Local Provisions Applicable To Development And/Or Site	How Does The Development Comply (Where Applicable)
Clause 6.2 – Earthworks	The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.	<p>The proposal relies on typical construction methods which are not expected to significantly affect existing environmental functions or surround structures. The objective would be satisfied in this case. The application appropriately seeks consent for earthworks and as demonstrated in the architectural plans.</p> <p>Conditions have been included which require an amended Construction Management Plan for the development and the recommendations implemented throughout the construction phase of the project. Similarly, conditions have been included which require protection measures to be implemented where excavation for which the zone of influence extends beyond the lot boundary and into adjoining land.</p> <p>In addition, given the extent of sub ground work and excavation, it is appropriate to require the developer to notify the surrounding owners prior to the commencement of any such works.</p>
Clause 6.4 – Stormwater	The objective of this clause is to minimise the impacts of urban stormwater on the land to which the development applies, adjoining properties, native bushland and receiving waters.	The application was submitted by drainage plans reviewed by council officers. The proposal subject to complying with relevant conditions, will be appropriately managed in response to proposed stormwater generation or any other existing stormwater/drainage features.

Part 6 Additional Local Provisions		
Part 6	Local Provisions Applicable To Development And/Or Site	How Does The Development Comply (Where Applicable)
Clause 6.6 – Active Street Frontages	<p>The site is identified on Active Street Frontages Map Sheets ASF_023-024:</p>  <p>Active Street Frontages</p> <p>Active Street Frontage</p> <p>(3) Development consent must not be granted to the erection of a building, or a change of use of a building, on land to which this clause applies unless the consent authority is satisfied that the building will have an active street frontage after its erection or change of use.</p> <p>(5) In this clause, a building has an active street frontage if all premises on the ground floor of the building facing the street are used for the purposes of business premises or retail premises.</p>	<p>The objective of this clause is to promote uses that attract pedestrian traffic along certain ground floor street frontages in the B3 Commercial Core Zone.</p> <p>This clause requires active street frontages (5) to be provided with business or retail premises on the ground floor.</p> <p>The proposed development has been designed to provide an active street frontage to both College and Cygnet Avenues through the placement of business tenancies with direct street access for the full length of these frontages. There is a defined street entrance to internal section of the building from College Ave, which is allowed under this section. Further to this a forecourt area with seating and plantings which mirrors the adjoining civic centre area is provided.</p> <p>In summary the proposal satisfies this section.</p>
Clause 6.7 – Airspace Operations	<ol style="list-style-type: none"> The objectives of this clause are as follows: <ol style="list-style-type: none"> to provide for the effective and ongoing operation of the Illawarra Regional Airport by ensuring that such operation is not compromised by proposed development that penetrates the Limitation or Operations Surface for that airport, to protect the community from undue risk from that operation. If a development application is received and the consent authority is satisfied that the proposed development will penetrate the Limitation or Operations Surface, the consent authority must not grant development consent unless it has consulted with the relevant Commonwealth body about the application. The consent authority may grant development consent for the 	<p>The submitted drawings show the proposed building to encroach into the mapped Obstacle Limitation Surface (OLS) by approximately 4m. The OLS for the site is 69AHD and only a small portion of the site is above this with a maximum building height of 73 AHD. No shadowing exists.</p> <p>In accordance with this Clause, the application was referred to the Civil Aviation Safety Authority (CASA).</p> <p>CASA's response dated 21 December 2018 is found in Attachment 7 and made the following recommendations:</p> <ul style="list-style-type: none"> <i>The proposed building is to be obstacle lit by low intensity steady red lighting during the hours of darkness at the highest point of the building. Obstacle lights are to be arranged to ensure the building can be observed in a 360 degree radius as per subsection 9.4.3 of the Manual of Standard Part 139 – Aerodromes (MOS Part 139).</i>

Part 6 Additional Local Provisions		
Part 6	Local Provisions Applicable To Development And/Or Site	How Does The Development Comply (Where Applicable)
	<p>development if the relevant Commonwealth body advises that:</p> <p>(a) the development will penetrate the Limitation or Operations Surface but it has no objection to its construction, or</p> <p>(b) the development will not penetrate the Limitation or Operations Surface.</p> <p>4. The consent authority must not grant development consent for the development if the relevant Commonwealth body advises that the development will penetrate the Limitation or Operations Surface and should not be constructed.</p>	<p><i>Characteristics for low intensity lights are stated in subsection 9.4.6 of the Manuel of Standards Part 139 – Aerodromes (MOS)</i></p> <ul style="list-style-type: none"> • <i>Obstacle light is to have a remote monitoring capacity, in lieu of observation every 24 hours, to alerts 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 MOS;</i> • <i>The proponent is to provide information to Council that the obstacle lighting provisions are in accordance with the MOS; and</i> • <i>The proponent is to inform the Council, upon completion, of the finished building heights.</i> <p>CASA noted Council's future plans to upgrade runway 08/26 and recommended that a procedural designer is consulted, to review and determine whether the future flight procedures of Illawarra Regional Airport including runways is possible and to ensure that its future functionality is not impacted by the development.</p> <p>Subsequent to this, a referral was made to Council's Airport Manager. It is understood that the airport management have commenced investigations to determine any limitations to the airport upgrade. However, in lieu of this being finalised and on recommendation from Council's Airport Manager, it is recommended a condition be imposed to ensure that the objectives of the clause is satisfied.</p> <p>The proposed condition is as follows:</p> <p><i>Prior to the release of the construction certificate The applicant must engage an appropriately qualified experienced consultant in airspace procedural design, to review any future flight procedures Illawarra Regional Airport including Runways and ensure that its future functionality is not impacted by the development.</i></p> <p><i>In the event that such review highlights an impact, mitigation measures and design solutions for amendments to the building must also be included.</i></p>

Part 6 Additional Local Provisions		
Part 6	Local Provisions Applicable To Development And/Or Site	How Does The Development Comply (Where Applicable)
		<p><i>The consultant must provide a report with findings and recommendations to Councils Manager Airport for review and approval, unless otherwise agreed by Council in writing any time prior.</i></p> <p>In this regard, the minimum requirements of this clause are considered to be satisfied and the objectives of the clause addressed.</p>
Clause 6.9 – Essential Services	<p>Development consent must not be granted for development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:</p> <ol style="list-style-type: none"> the supply of water, the supply of electricity, the disposal and management of sewage, stormwater drainage or on-site conservation, suitable vehicular access. 	<p>Relevant referrals were sent for assessment which confirmed that the site is capable of being serviced by water, electricity, sewer as well as direct vehicular and pedestrian access services, as required by the clause.</p> <p>Servicing conditions have been applied as relevant – See Attachment 7 for full response details.</p>

Section 4.15 (1) (a)(ii) – any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).

Nil.

Section 4.15 (1) (A)(lii) – And Development Control Plan

The proposal has been assessed in regard to compliance with the following chapters:

Chapter 2 The Development Process		
DCP Provisions	Proposal & Comment	Compliance
2.2 Development Application, Notification and Submission	<p>The application was exhibited between 28 June 2018 and 18 July 2018 and subsequently re-notified as per 2.2.7 for plan amendments.</p> <p>The re-notification occurred between 21 March 2019 and 10 April 2018.</p> <p>No submissions were received over either of the exhibition periods.</p>	Satisfactory
2.5 Variation to Development Provisions, Council may grant development consent to a proposal that does not comply with the development provisions of this DCP. Any variation will be assessed on its merits. Where a proposal does not comply,	Variations have been addressed as required in accordance with section.	Satisfactory

a written statement within the Statement of Environmental Effects must be provided requesting a variation to the development provisions.		
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Chapter 3 Residential Development

3.17 – Shellharbour City Centre	The proposal has demonstrated that it's consistent with the relevant objectives.	
Objectives:		
1. To encourage a range of residential medium density housing opportunities in the City Centre.		
2. To provide for adaptive re-use of ground floor accommodation for retail and/or commercial use.		
3. To provide acoustic privacy.		
4. To optimise views to areas of environmental amenity.		
		Satisfactory

Chapter 7 Shellharbour City Centre Commercial Development

Objectives:		
1. To facilitate the land use strategy for the city centre identified in the master plan.		
2. To facilitate implementation of public domain works.		
3. To encourage appropriate uses throughout the city centre in accordance with the masterplan.		
4. To provide development guidelines and advice to assist in the design and development of the city centre based on urban design concepts and principles contained in the masterplan.		
5. To establish the intended future character of the city centre and to provide guidelines which will ensure all future development makes a positive contribution to the public domain and streetscape.		
6. To provide performance-based objectives, guidelines and advice which will ensure that the city centre is developed in accordance with the masterplan.		
7. To provide detailed site specific design guidelines and criteria to ensure each site within the city centre is developed in accordance with the aims of this plan.		
8. To provide a framework for development and growth that responds to realistic market and community needs.		
		Satisfactory – The proposal addresses in detail that it's consistent with the relevant objectives.
7.1 Façade Treatment	The proposal includes a high amount of large shop windows at ground level. Despite the building's length, the building gives the impression of a vertical emphasis through the use of articulation, materials and the stepping nature of the building from south to north.	
7.1.1 Refer to Figure 7.1 below for examples for appropriate treatments for various building types.		
7.1.2 Buildings should generally be of masonry appearance with generous shop windows to the street.	Recessed and well-articulated elements along both College Avenue and Moolawang Place articulate the facades. To Cygnet Avenue & Bimbala Place there's appropriate form as the proposed	
		Satisfactory

7.1.3	Windows above street level should be of vertical appearance or framed to emphasise verticality.	building is not boundary to boundary, rather one that effortlessly turns corners. These elevations are well supported by landscaping and appropriate use of materials.	
7.1.4	Building facades should be articulated to establish a strong vertical rhythm.		
7.1.5	Buildings should provide a diversity and variety of form in long facades.		
7.1.6	Building frontages are to be articulated into separate building frontages and bays, using shop front separations, attached columns and steps in the façade.		
7.1.7	A balance of horizontal and vertical façade elements should be provided and relate to adjacent facades in the street.		
7.1.8	Long facades should be subdivided with windows and other façade elements to provide a balanced composition.		
7.1.9	Simple façade designs containing only horizontal or vertical elements are not supported.		
7.1.10	Excessive lengths or heights of blank walls which are highly visible to any area of public domain (including streets, lanes and car courts) will not be permitted.		
7.1.11	Excessive areas of curtain walled reflective glazing will not be permitted.		
7.1.12	Air conditioning facilities must not be visible from the street.		
7.2	Pedestrian Arcades and service areas	The proposal provides a through site link in accordance with this section. Accessibility to commercial premises and apartments is at appropriate grade & direct street level where possible. Refer to Figure B on Page 6.	Satisfactory
7.2.1	Pedestrian arcades are not permitted except where identified and approved on the Master Plan or Block/Precinct Development Strategy.		
7.2.2	Service access is only permitted from service lanes.		
7.4	Building Materials	The materials as shown on Colour Board, Issue B, February 2019. They are of a high level that are appropriate for such a prominent location in the City Centre.	Satisfactory
7.5	Solar Access	Solar access has been addressed in detail under ADG (SEPP 65) – Attachment 3 .	Satisfactory
7.6	Building Height	Building height shown on Figure 27 below as 4 Storeys.	Satisfactory – Refer to Cl 4.6 of the report for a more

7.6.1	Building heights need to comply with the relevant LEP provisions.	Applicant states the following:	detailed assessment of the height variation.
7.6.2	Any parapet or parapeted gable needs to be within the LEP height limit unless it can be demonstrated it meets the LEP criteria for an architectural roof feature.	The proposal is of comparable height to the council building and the design and massing of the building, together with the proposed public forecourt at the intersection of Cygnet Avenue and College Avenue, complements the character of the streetscape and the Civic Plaza, reinforcing a sense of place.	7.12 below identified the areas subject to the height increase as a focal point.
7.6.3	This Section illustrates general building heights for the city centre, see Figure 7.5 below. Principal features of this plan are: a. a general height limit of 3 storeys b. potential for an extra floor in significant locations and where the urban form of the city may be celebrated c. potential for a landmark building to 6 storeys immediately south of the city square and the civic precinct.	The proposal sensitively responds to the topography of the site; the building gradually steps down the natural slope of the site when viewed from College Avenue in particular. The increased built height creates a strong focal corner of the development and the height variation is considered to be appropriate when considered within the context of the overall streetscape with its primary frontage to College Avenue and Cygnet Avenue.	
7.6.4	Corner elements can be higher than buildings except in precinct E and/ or where shadowing is unacceptable.		

Figure 7.5 - Building height

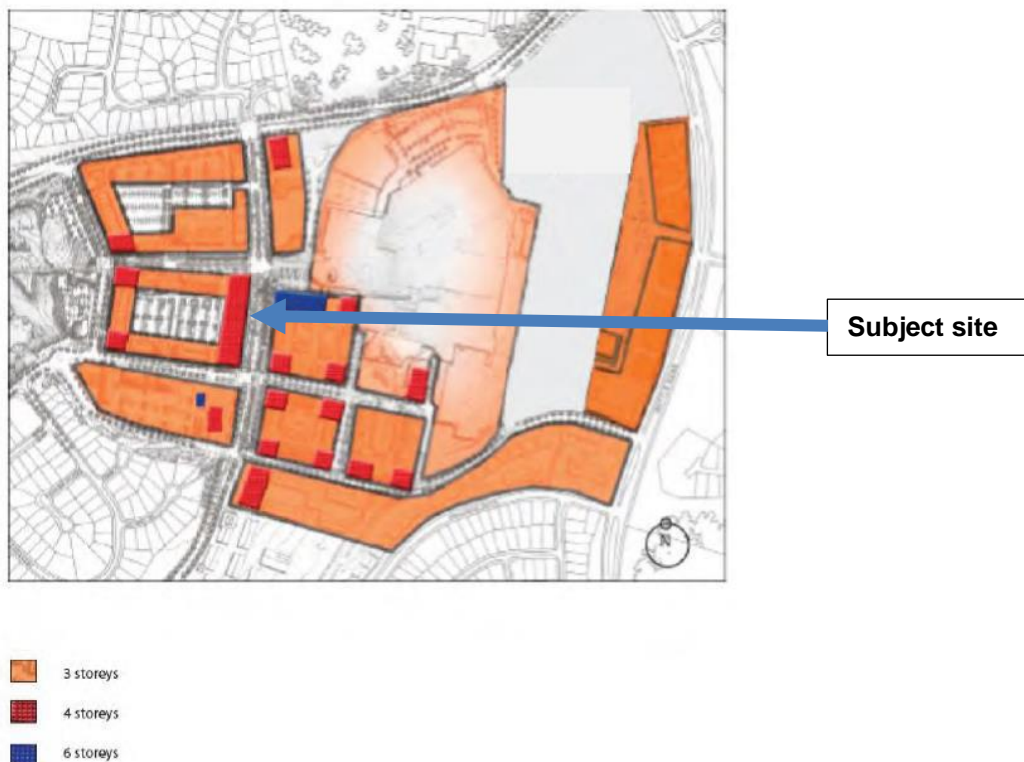


Figure 27 – Building Height, identified as figure 7.5 SDCP

NOTE: Building height will also be limited by excavation cost for basement parking and demand.

NOTE: Building heights should be a little flexible where steep slopes occur in order that basement and semi basement levels are not counted as floors. This particularly so on Minga Avenue and College Avenue west near Cygnet Avenue.

7.7 Public Domain Implementation

7.7.1 As part of development consents for subdivision or other development involving the creation of new road(s) or lane(s), the developer will construct public lanes, roads, footpath paving, pedestrian weather protection.

Landscape plans and other plans/documentation provide the required details.

The landscaping and pedestrian paving successfully softens the built environment, creating useable public domain around the building and protects pedestrians along College Avenue, Bimbala Place, Moolawang Place and Cygnet Avenue. A public forecourt is proposed to the southern corner frontage of Cygnet Avenue and College Avenue.

Satisfactory

7.8 Master Plan Precincts

The Shellharbour City Centre comprises a number of sites or precincts which each have their own development pattern and function within the Master Plan. It is important to recognise and differentiate between each of these sites/precincts in terms of their existing development form and the proposed structure under the Master Plan and to identify the objectives and development strategies/principles for each of the sites.

As per Figure 28 below the site is identified within Precinct D.



Figure 28 – Master Plan Precincts

7.12 Precinct D: Central - Memorial Drive/Cygnnet Avenue

Precinct D is located on the southern side of Memorial Drive. College Avenue, Cygnnet Avenue and Minga Avenue form the other boundaries for the precinct. Precinct D is a key development site within the City Centre which is proposed to be the location for mixed-use development and has an existing pub.

As per Figure 30 below the site is identified within Precinct D, as a key site with a focal point, commercial/residential and active street frontages along College & Cygnnet Avenue.

Figure 7.10 - Precinct D

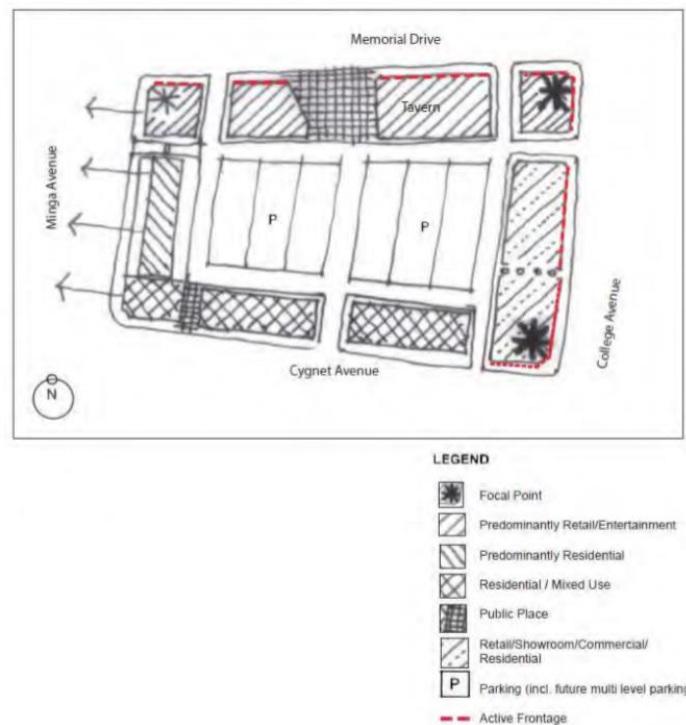


Figure 29 – Identified As 7.10, Precinct D SDCP

The location of additional height in the proposal, is concentrated to this area, which this section requires the development to incorporate a focus point or iconic element. These goes towards supporting the additional height and form to Cygnnet/College Avenue as part of the proposed design.

<p>Objectives:</p> <ol style="list-style-type: none"> 1. Memorial Drive to support a mix of retail, commercial and entertainment uses which generate high levels of pedestrian activity. 2. College Avenue to support a mix of, showroom, secondary retail and commercial uses which will enliven the street. 3. Mixed use and residential development along the Minga Avenue frontage. 4. Central block car parking areas. 5. Wide footpaths with awnings and verandahs. 6. Café/restaurants spilling out onto Memorial Drive footpaths. 7. A mix of retail, commercial, secondary retail, showroom and uses to Cygnet Avenue. 8. Building height generally 2-3 storey to the street (except on Minga Avenue where steep slope may allow for apparently taller buildings but still three storeys to rear lane, and College Avenue where buildings to four storeys are appropriate to accommodate the uneven slopes on either side of the street). 9. Ensure development (especially residential) accounts for future mid-block multi-level parking 	<p>The proposal results in street level commercial premises to Cygnet Avenue and College Avenue. These will enliven the streets and core of the city centre providing an active street frontage. The building will consist of seven storeys above ground, which is above the 4 identified.</p>	<p>Satisfactory</p> <p>Refer to CI 4.6 of the report for a more detailed assessment of the height variation.</p>
Chapter 13 Parking, Traffic and Transport		
Refer to specific requirements for the Shellharbour City Centre under chapter 14 below.		

Chapter 14: Shellharbour City Centre Vehicular Access, Parking and Servicing

DCP Provisions	Proposal & Comment	Compliance																		
14.2 – Car Parking																				
Standards and minimum parking requirements																				
14.2.1 Table 14.1 below specifies the car parking standards applicable to the City Centre.																				
Table 14.1 - Car Parking Standards within the City Centre																				
<table><tr><th>Land use</th><th>Car spaces per m2 of gross floor area</th></tr><tr><td>Retail</td><td>1/35</td></tr><tr><td>Commercial</td><td>1/40</td></tr><tr><td>Bulky goods/showrooms</td><td>1/50</td></tr><tr><td>Hotel</td><td>1/4.5 + 1 for each 3 employees</td></tr><tr><td>Motel</td><td>1 per unit + 1 for each 2 employees</td></tr><tr><td>Residential</td><td>1 per dwelling unit</td></tr><tr><td>Library</td><td>1/50</td></tr><tr><td>Community/civic facilities</td><td>1/40</td></tr></table>			Land use	Car spaces per m2 of gross floor area	Retail	1/35	Commercial	1/40	Bulky goods/showrooms	1/50	Hotel	1/4.5 + 1 for each 3 employees	Motel	1 per unit + 1 for each 2 employees	Residential	1 per dwelling unit	Library	1/50	Community/civic facilities	1/40
Land use	Car spaces per m2 of gross floor area																			
Retail	1/35																			
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Motel	1 per unit + 1 for each 2 employees																			
Residential	1 per dwelling unit																			
Library	1/50																			
Community/civic facilities	1/40																			
<u>Residential</u> Apartments: As per the table above 1 space is required per apartment - 77 spaces	 The proposal provides 77 individually identified spaces, within the basement areas	 Satisfactory																		
Visitor Parking: There is no listed requirement for visitor parking above. The RMS guide to TGD is therefore be applied. 0.2 spaces per apartment – 15.8 spaces	 The proposal is satisfactory as it provides 16 individually marked visitor parking spaces, evenly disturbed within the basement areas.	 Satisfactory																		

14.3 Proposals with existing mid-block parking (Precincts C and D)

Commercial

The parking required to be provided is specially outlined in 14.3.2.

All other parking:

- a. Calculate total gross floor area (A) (as per LEP definition), for non-residential use. (A) = **2009sqm (including lobby & all internal areas)**
- b. On the basis that existing mid-block parking caters for 1:1 (non-residential) floor space ratios, deduct the total site area (B) from total non-residential gross floor area (A). This equals C. E.g. non res GFA = 2000, site area = 1500. C = 500

A. 2009sqm
B. Site Area 3213sqm
C. -1204sqm

- c. Using the numerical parking standards of the DCP calculate the number of parking spaces required for C. This equals D. For the purpose of this parking calculation, the ratio of uses will be the same as the total gross floor area ratio for non-residential uses. E.g. 1200 retail, 800 commercial, makes up the total 2000 non res. GFA. Therefore C is 300 retail and 200 commercial (to make up the 500). D = 8.6 for retail + 5 for commercial.

C. 1204sqm. 1204/40.
D. = - 30.1

- d. (D) will be provided on site or a parking contribution towards multi deck parking levied in lieu of onsite provision.

N/A as D is not a positive number. Ref to e. below for direction.

- e. If (D) is a negative number, the subject land still has entitlement to this number of mid-block parking spaces post subject development.

As D is a negative number the subject land is entitled to mid-block parking.

As identified above in the detailed calculation the proposed business GFA, is not greater than the site area. Therefore there is no requirement for the proposal to have any business parking on the site, with a credit available for any future increase in commercial space.

The proposal provides two spaces within the upper level of the two basement areas, the remaining is offset through the availability for it to be accommodated within the adjoining Mid-Block public parking area – Shown in Figure 30 below . The development has provided appropriate pedestrian access to the area:



Figure 30 – Aerial Photo Of The Site In Proximity To Adjoining Mid-Block Public Parking Area.

Chapter 15: Waste Minimisation and Management

15.1 Mixed use developments - residential & non-residential		
<p>15.1.8 In addition to submitting a WMP, development applications must show/demonstrate:</p> <p>a. Same requirements as Multi dwelling housing, for the residential component of mixed-use development.</p> <p>b. Same requirements as Commercial developments and change of use for the non-residential component of mixed-use development.</p> <p>c. Mixed Use development must incorporate separate waste/recycling storage rooms/areas for the residential and non-residential components. Commercial tenants must be prevented (via signage and other means) from using the residential waste/recycling bins and vice versa.</p>	<p>Operational Waste Management Plan prepared by consultant Elephants Foot Recycling Solutions. Waste servicing is located in the basement area, with collection vehicles able to easily access the site from Moolawang Place, collect and existing the site in a forward direction onto Bimbala Place.</p> <p>Acoustic report by Harwood Acoustics has considered noise associated impacts from waste chutes. Relevant conditions will be applied.</p>	Satisfactory

d. The residential waste management system and the non-residential waste management system must be designed so that they can efficiently operate without conflict. Conflict may potentially occur between residential and non-residential storage, collection and removal systems, and between these systems and the surrounding land uses. For example, collection vehicles disrupting peak residential and commercial traffic flows or causing noise issues when residents are sleeping.		
Chapter 17: Crime Prevention through Environmental Design		
17.1 Lighting 17.3 Landscaping 17.4 Development frontages 17.9 Security	The proposed development will ensure passive surveillance of the public domain with street level commercial premises and appropriate lighting will be implemented throughout the development. Appropriate CPTED conditions applied to manage relevant aspects.	Satisfactory
Chapter 20: Landscaping		
20.2 Development Types & Landscaping	Landscaping requirements have been addressed and are seen to be well thought on such a site. Refer to detailed plans prepared by consultant Taylor Brammer.	Satisfactory
Chapter 25: Stormwater Management		
25.1 The associated Appendix 10 outlines background and technical information necessary to assist in the preparation of development applications so that it addresses: a. ecologically sustainable development b. methods to improve water quality of receiving waters c. ways to minimise adverse impacts on existing public infrastructure can be incorporated into the design of development proposals.	Drainage plans prepared by ATB Consulting Engineers have been reviewed by referral engineers. Relevant conditions have been applied.	Satisfactory
Chapter 29: Social Impact Assessment (SIA)		
29.1 Appendix 12 details Council's process for SIA and the development that requires this type of environmental assessment. It includes roles and responsibilities for SIA and information to assist applicants in the preparation of a SIA.	SIA provided and reviewed by relevant assessment officers	Satisfactory

10. Section 4.15 (1) (a)(iv) - the regulations (to the extent that they prescribe matters for the purposes of this paragraph)

The necessary conditions have been recommended as part of the draft development consent conditions.

11. Section 4.15 (1)(b) - The Likely Impacts Of The Development, Including Environmental Impacts On Both The Natural And Built Environments, And Social And Economic Impacts On The Locality

a. Bulk and Scale

The building design will provide the main bulk and scale at the southern portion of the site in terms of its most prominent size. The building is not “boundary to boundary” and rather site responsive, which assists in minimising any detrimental impact to neighbouring properties by either loss of light or overlooking. Sufficient levels of sunlight will be achieved within the public forecourt of the proposal and the adjoining civic centre area to eastern sunlight.

Shadow diagrams have been prepared that show the main impact of over-shadowing will be towards the civic centre forecourt area. The central plaza will be shadowed during the winter mornings but receive sufficient natural light during the afternoons. The adjoining residences in Mixed Use Development to the northern and western elevation remain unaffected.

As mentioned the application was considered by the Design Review Panel (DRP) twice (most recently 26 March 2019) **Attachment 5** provides the outcomes of the DRP review together with the applicant’s design response. Council has reviewed the outcome and the assessment of the proposal and is satisfied that the development achieves the desired future character of Shellharbour City Centre and the relevant provisions of SEPP 65.

b. Height of Buildings

As discussed in detailed previously in this report, the building at the southern end of the site and to a lesser degree a small section at level 4 in the centre, does not comply with the height standard set out in Shellharbour Local Environmental Plan (SLEP) 2013. The applicant through a rigorous design process. This has included undertaking an Urban Design Analysis of the site, incorporating Design Review Panel recommendations, as well as the SRPP briefing items. In taking these matters into account it has established that whilst maintaining consistency with the 18m height at the northern and middle sections of the development, additional height can be justified at the southern end to a maximum of 6 residential levels and an overall height of 27.54m. The bulk of the height which exceeds the maximum represents approximately 35% height variation over 30% of the site. The increase in height creates an iconic corner element and appropriate future built form as encouraged by 7.12 Shellharbour Development Control Plan (SDCP).

The site itself is unique in its size and form given the rectangular nature, with the northern elevation having the shorter width. The proposal has been well set out on the site to maximise solar access and views.

The increase in height hasn’t unreasonably impacted on adjoining development with the overall form being massaged into the building. The design responds well at all street

elevations including active street frontages and seamlessly turns the corners on each elevation.

The Clause 4.6 Exception prepared in respect of the height standard has been assessed and has been found to be acceptable and it is considered that the development standard relating to the maximum building height for the site as set out in clause 4.3 of SLEP 2013, should be varied in the circumstances to allow the development to achieve a redistribution in height across the site.

c. Access, Transport And Traffic

Mid-block parking is shared with adjoining properties for commercial premises as detailed elsewhere in the report.

The loading facility will allow access to service vehicles including waste collection and deliveries to load and unload within the premises.

Service vehicles will enter and exit the facility in a forward direction and reverse into the loading dock from the car park.

Traffic arrangements for the residents and businesses are all via one access at the western elevation from Moolawang Place into the basement levels. The movability of the areas has been reviewed to development engineers, subject to standard condition no impacts are likely.

d. Noise and Vibration

An acoustic report was prepared by Harwood Acoustics and submitted with the application. The report concludes that the noise levels across the site are predominately affected by mechanical ventilation plant noise emissions from plant within the adjoining Stockland Shopping Centre and traffic along adjoining road network.

The report took into account existing ambient noise levels at the site boundaries and at various nearby receptors to determine the character of the existing acoustic environment. The assessment used the Industrial Noise Policy prepared by the Environmental Protection Authority (EPA) to determine whether residential properties were currently exposed to acceptable levels of noise disturbance, mainly from road.

A vibration control plan has been conditioned to be provided prior to the release of the Construction Certificate. This ensures impacts to adjoining properties is satisfactory.

Other relevant conditions have been imposed to ensure noise matters are adhered to.

e. Services

The site is presently serviced by Sydney Water's reticulated water and sewerage services. It is expected that these services can be extended/ augmented to meet the requirements of the proposed development. The site has an existing endeavor energy pad mount station, which will allow for electricity to service the development. Refer to section 6.9 SLELP 2013 above and **Attachment 7** for external referral responses.

f. Construction

The applicant has provided a detailed construction management plan by Consultants ATB. Conditions of consent are recommended in relation to construction impacts such as hours of work, erosion and sedimentation controls, works in the road reserve, excavation and use of any crane, hoist, plant and/or scaffolding.

Parking of any associated vehicles within the public mid-block parking area timed spaces is not supported. This has been reflected through conditions which require and updated Construction Traffic Management plan. The use of the footpath area for site officers or the like has also not been supported as it is seen as appropriate for the impacts of the development not to spill onto the road reserve. Subject to an updated CMP as provided by conditions the impacts can be managed accordingly.

g. Crime Prevention Through Environmental Design

The mixed use development will provide good passive surveillance for the users of the city centre including users of the adjoining Stockland Shopping Centre. The prominent shop frontages will create areas for greater passive surveillance, and residential apartments located above will also provide for surveillance to the surroundings via their windows and balconies to all four elevations.

Key items notes in referral assessment by Council officers include; Surveillance including lighting requirements, territorial reinforcement, access control, activity/space management and graffiti management.

The development includes a highly effective transition between public, semi-private, and private areas through the use of physical and visual barriers and cues, as well as clarity of ownership.

Private areas will be secured by roller shutters to the garage and waste/loading bay and doors to the lobby and fire exits. In this regard, appropriate conditions have been recommended.

The external lighting has been considered in detail, including a report by consultants Arrow Consulting Engineers. Conditions have been recommended to ensure that it is of an appropriate level.

h. Cumulative Impacts

There are a number of other recent developments of similar scale and form within proximity to the subject site. These include the adjoining Civic Centre Hub & Mixed Use Development on Benson Avenue (under construction).

Together with these developments, it will likely result in a more complete city area, which will encourage other vacant or under developed sites to be developed in a similar way. In supporting this development, it will lead to fulfilment of the Shellharbour City Centre.

The addition of more commercial space to the mix in the city centre area, will attract persons from out of the area and increase visitor numbers linked to spending within the city centre area.

By significantly increasing the housing options within the city centre, similar to the Benson Avenue Development, it will bring vibrancy associated with populated city centres.

i. Economic Impact

The proposed development will result in significant investment into the Shellharbour economy from investors. Direct economic impacts will include employment generation during the construction period and significant new employment within the seven business premises

It will further contribute to the local economy due to the increased population density to the locality, thereby activating commercial activity along College Avenue.

12. Section 4.15 (1)(c)- The Suitability Of The Site For Development

The site's suitability has been discussed throughout this report. The development site does not appear to include any physical impediments that would preclude the development as proposed. The proposal is supported by relevant information to enable an assessment.

Three primary considerations that demonstrate the sites suitability include the outcomes relating to overall built form design including height and scale, solar access and site specific outcomes. These matters have been discussed in detail within this report which demonstrates that the context, setting, character of area and importantly building placement lends itself to the site being suitable for the proposed development.

In this regard, the site is suitable for the proposed development subject to the imposition of conditions as recommended at **Attachment 1**.

13. Section 4.15 (1)(d) - Any Submissions Made In Accordance With The Act Or The Regulations

Pursuant to s79A of the *Environmental Planning & Assessment Act 1979* (the Act), the DA was publicly notified as required by the provisions of the *Shellharbour Development Control Plan* (SDCP).

The application was originally exhibited between 28 June 2018 and 18 July 2018. In accordance with SDCP requirements after amendment had been made the application was re-notified, this occurred between 21 March 2019 and 10 April 2019. No submissions were received during either listed period.

The notification process included a DA notification sign attached to the curtilage of the site, letters to property owners/occupiers within 50m of the site and an advertisement notice in the local newspaper seeking representations regarding the proposal to be submitted for Council's consideration within the 21 day period.

14. Section 4.15 (1)(e) - The Public Interest

The construction and operational stages of the development will provide employment and economic benefits to the Shellharbour LGA.

The application is not expected to have any unreasonable impacts on the environment or the amenity of the locality. It is considered appropriate with consideration to the zoning and the character of the area and is therefore considered to be in the public interest.

The contribution of lifestyle choice and potential tourism drawing facility (use of apartments and uses within commercial premises) the development will bring to the community will further enhance and contribute to the overall fulfilment Shellharbour City Centre in a positive way.

Accordingly, development consent of this proposal will not undermine the public interest subject to appropriate conditions being imposed on any development consent.

15. Conclusion

The proposed development:

- is consistent with the relevant statutory requirements, development controls and planning objectives, and
- is consistent with the applicable provisions of the relevant state planning policies including SEPP 65 and the Apartment Design Guide;
- is able to contribute to the overall vehicle parking requirements that will service the subject DA as well as the immediate uses around the subject site;
- has been designed to respect and not conflict with the interaction of other uses within the city centre such as the Civic Centre Building and Stockland Shopping Centre, and

Based on the assessment above, where there are no outstanding issues, it is recommended that DA No. 0262/2018 be approved.

16. Recommendation

That conditional development consent is granted to Development Application No. 262/2017 (2018STH017) to construct the mixed use development comprising of seven business premises, (77 apartments) shop top housing and basement parking at Lot 3 in DP 1072916, 16 College Avenue, Shellharbour City Centre.

The recommended conditions are detailed in **Attachment 1**.

17. Attachments

- Attachment 1 – Recommended Conditions
- Attachment 2 – Development Plans
- Attachment 3 – Assessment of Compliance Apartment Design Guidelines (SEPP 65)
- Attachment 4 – Applicants Statement of Environmental Effects, Clause 4.6 and ADG Compliance Analysis
- Attachment 5 – Design Review Panel Minutes
- Attachment 6 – Applicants Design Review Panel Response
- Attachment 7 – External Referral Responses & Public Exhibition Notices