

**PLANNING PANEL (SOUTH)**  
**ADDENDUM TO COUNCIL REPORT COVER SHEET**

<b>Panel Reference</b>	<b>PPSSTH-125</b>
<b>DA Number</b>	<b>DA0616/2021</b>
<b>LGA</b>	<b>Shellharbour City Council</b>
<b>Proposed Development</b>	Demolition of existing commercial building and retention of one heritage building, consolidation of Lot 2 and 3 and construction of shop top housing development comprising of four (4) commercial and 17 residential units with basement parking (shop top housing).
<b>Development Characterisation</b>	Shop top housing
<b>Location</b>	Lots 2 & 3 DP 23880 Lot B DP 162686 Lot 4 DP 238804 Lot 9 DP 238804 Lot 10 DP 238804 Lot 11 DP 238804 Lot 12 DP 238804 Lot 13 DP 238804 Lot 14 DP 238804 Lot 15 DP 238804
<b>Applicant/Owner</b>	J. Cain (Applicant) Harbour Cove Developments Pty Ltd (Owner) Shellharbour City Council (Owner of Car Park)
<b>Date of DA lodgement</b>	14 October 2021
<b>List all documents submitted with this report for the Panel's consideration</b>	Attachment 1 – Amended conditions of consent
<b>Report prepared by</b>	Nicole Doughty – Senior Development Assessment Officer
<b>Date of report</b>	2 June 2022

The purpose of this report is to provide the Panel with amended conditions in accordance with the advice following the final briefing for PPSSTH-125 held on 31 May 2022 at Shellharbour City Council Offices.

The amended conditions have been included in their entirety as attachment 1 of this report. The conditions that have been amended/added are detailed as follows:

- **Condition 26 – Demolition and Construction Management Plan (DCMP)**

This condition has been amended to ensure contaminated waste materials are disposed of appropriately.

Original Condition

Prior to the issue of any Construction Certificate, a Demolition and Construction Management Plan must be submitted with the application for any Construction Certificate, and must include the following measures:

- dedicated construction site entrances and exits, controlled by a traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways;
- turning areas within the site for construction and spoil removal vehicles, allowing a forward entry and egress for all construction vehicles on the site;
- the location of proposed Work Zones in the egress frontage roadways;
- location of any proposed crane standing areas;
- a dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries;
- material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected;
- the provisions of an on-site parking area for employees, tradesperson and construction vehicles as far as possible, or other arrangements to ensure that employees, tradesperson and construction vehicles are not parking within the adjoining car parking area;
- a detailed description and route map of the proposed route for vehicles involved in spoil removal and demolition material removal material delivery and a copy of this route is to be made available to all contractors;
- a detailed description of locations that will be used for layover for trucks waiting to access the construction site;
- construction program that references peak construction activities and proposed construction;
- any potential impact to general traffic, cyclists, pedestrians and bus services within the vicinity of the site from construction vehicles during the construction of the proposed works;
- alignment with the approved waste management plan
- location of protective site fencing, including tree protection methods;
- location of site storage areas/offices/equipment;
- management of Fuels and Chemicals;
- unexpected contamination finds and stop work protocols;
- cultural heritage stop work protocol;
- location of building materials for construction, e.g. stockpiles;
- provisions for public safety;
- provisions for temporary sanitary facilities;
- location and size of waste containers/skip bins;
- method used to provide construction noise and vibration management;

- w. methodology utilised for the protection of the Heritage item on the site and on nearby sites;
- x. construction traffic management details consistent with other required amendments.

The site management measures are to be implemented prior to the commencement of any works including demolition and excavation. The site management measures are to be maintained throughout the works, to maintain reasonable levels of public health, safety and amenity. A copy of the Construction Management Plan must be retained on site and is to be made available upon request.

It is the developer's responsibility to adequately inform all construction workers, sub-contractors and supervisors to ensure that the Construction Traffic Management procedures are adhered to at all times.

#### Amended condition with changes highlighted

Prior to the issue of any Construction Certificate, a Demolition and Construction Management Plan must be submitted with the application for any Construction Certificate, and must include the following measures:

- a. dedicated construction site entrances and exits, controlled by a traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways;
- b. turning areas within the site for construction and spoil removal vehicles, allowing a forward entry and egress for all construction vehicles on the site;
- c. the location of proposed Work Zones in the egress frontage roadways;
- d. location of any proposed crane standing areas;
- e. a dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries;
- f. material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected;
- g. the provisions of an on-site parking area for employees, tradesperson and construction vehicles as far as possible, or other arrangements to ensure that employees, tradesperson and construction vehicles are not parking within the adjoining car parking area;
- h. a detailed description and route map of the proposed route for vehicles involved in spoil removal and demolition material removal material delivery and a copy of this route is to be made available to all contractors;
- i. a detailed description of locations that will be used for layover for trucks waiting to access the construction site;
- j. construction program that references peak construction activities and proposed construction;
- k. any potential impact to general traffic, cyclists, pedestrians and bus services within the vicinity of the site from construction vehicles during the construction of the proposed works;
- l. alignment with the approved waste management plan and any requirements for the disposal of contaminated waste materials;
- m. location of protective site fencing, including tree protection methods;
- n. location of site storage areas/offices/equipment;
- o. management of Fuels and Chemicals;
- p. unexpected contamination finds and stop work protocols;
- q. cultural heritage stop work protocol;
- r. location of building materials for construction, e.g. stockpiles;
- s. provisions for public safety;
- t. provisions for temporary sanitary facilities;

- u. location and size of waste containers/skip bins;
- v. method used to provide construction noise and vibration management;
- w. methodology utilised for the protection of the Heritage item on the site and on nearby sites;
- x. construction traffic management details consistent with other required amendments.

The site management measures are to be implemented prior to the commencement of any works including demolition and excavation. The site management measures are to be maintained throughout the works, to maintain reasonable levels of public health, safety and amenity. A copy of the Construction Management Plan must be retained on site and is to be made available upon request.

It is the developer's responsibility to adequately inform all construction workers, sub-contractors and supervisors to ensure that the Construction Traffic Management procedures are adhered to at all times.

- **Condition 28 – Construction Traffic Management Plan (CTMP)**

This condition has been amended to ensure that the public car park is used by the public and not by construction worker vehicles.

Original condition

Prior to the release of Construction Certificate, a CTMP detailing vehicle routes, number of trucks, access arrangements, impact on pedestrians and traffic control must be prepared and provided to the Principal Certifier.

The permanent use of the public vehicle parking area (Addison and Mary Street) for construction workers vehicles is not supported. The applicant should consider making arrangements for sites in close proximity that are in private ownership.

It is the developer's responsibility to adequately inform all construction workers, sub-contractors and supervisors to ensure that the Construction Traffic Management Plan procedures are adhered to at all times.

Amended condition with changes highlighted

Prior to the release of Construction Certificate, a CTMP detailing vehicle routes, number of trucks, access arrangements, impact on pedestrians and traffic control must be prepared and provided to the Principal Certifier.

The **regular** use of the public vehicle parking area (Addison and Mary Street) for construction workers vehicles is not supported. **The applicant must make alternate arrangements that do not rely on the public car park.**

It is the developer's responsibility to adequately inform all construction workers, sub-contractors and supervisors to ensure that the Construction Traffic Management Plan procedures are adhered to at all times.

- **Condition 43 – Compliance with Report Recommendations**

This condition has been amended to require the recommendations of the approved Preliminary Site Investigation to be complied with including the preparation of a hazardous materials survey and disposal of excavated materials.

Original condition

43. Geotechnical Report Recommendations

- a. The recommendations contained within the Geotechnical Investigation Report prepared by Morrow Geotechnics Pty Ltd dated 29 September 2021 are to be fully complied with.

Details demonstrating compliance shall be submitted to the Principal Certifier.

Amended condition with changes highlighted

43. **Compliance with** Report Recommendations

- a. The recommendations contained within the Geotechnical Investigation Report prepared by Morrow Geotechnics Pty Ltd dated 29 September 2021 are to be fully complied with.
- b. The recommendations of the approved Preliminary Site Investigation prepared by Geosyntec Consultants dated 28 September 2021 are to be complied with, including the preparation of a hazardous materials survey and the disposal of excavated materials from the site.

Details demonstrating compliance shall be submitted to the Principal Certifier.

- **Condition 58 – Contamination – Unexpected Finds Contingency**

This condition has been amended to include hazardous materials survey.

Original Conditions

Should any contamination or suspect material be encountered during site preparation, earth works, construction or any other stage of the development, then works must cease immediately and a suitably qualified consultant engaged to conduct a thorough contamination assessment.

In the event that contamination remediation is required, all works must cease and the Council must be notified immediately. The contamination assessment must be submitted to Council for Approval.

All recommendations provided in the contamination assessment must be followed as stipulated.

Amended condition with changes highlighted

Should any contamination or suspect material be encountered during **the hazardous materials survey**, site preparation, earth works, construction or any other stage of the development, then works must cease immediately and a suitably qualified consultant engaged to conduct a thorough contamination assessment.

In the event that contamination remediation is required, all works must cease and the Council must be notified immediately. The contamination assessment must be submitted to Council for Approval.

All recommendations provided in the contamination assessment must be followed as stipulated.

- **Condition 84 – Operational Plan of Management**

This condition has been amended to include a curfew for the use of the rooftop communal open space and a requirement for the Operational Management Plan to be included in the bylaws of any future strata committee.

Original Condition

84. Operational Plan of Management for the Building

The developer shall prepare an Operational Management Plan which addresses all operational and management procedures to be employed, to ensure that the all uses, can operate safely and without disturbance to the surrounding locality.

Matters to be addressed include (but are not limited to):

- a. hours of operation of the various uses within the business/retail premises,

- b. noise emissions generated by mechanical plant to satisfy criteria set out in the EPA's *Industrial Noise Policy 2000*,
- c. management of deliveries, all loading and unloading operations associated with servicing the site must be carried out within the confines of the site, at all times and must not obstruct other properties/units or the public way,
- d. management measures to control vehicle activity,
- e. the emergency management of the movement of people within and surrounding the site,
- f. maintenance regime – ongoing maintenance of external finishes and graffiti removal etc,
- g. security management – lighting, CCTV etc,
- h. the necessary operational and maintenance requirements of all landscaped areas on site. Such requirements must ensure that all landscaping is maintained in perpetuity, and
- i. requirement that the operator is responsible for the removal of any graffiti that may appear on any part of the external walls of the building and that it shall be removed within 48 hours of it appearing

Amended condition with changes highlighted

#### 84. **Operational Management Plan**

The developer shall prepare an **Operational Management Plan** which addresses all operational and management procedures to be employed, to ensure that the all uses, can operate safely and without disturbance to the surrounding locality.

Matters to be addressed include (but are not limited to):

- a. hours of operation of the various uses within the business/retail premises,
- b. noise emissions generated by mechanical plant to satisfy criteria set out in the EPA's *Industrial Noise Policy 2000*,
- c. management of deliveries, all loading and unloading operations associated with servicing the site must be carried out within the confines of the site, at all times and must not obstruct other properties/units or the public way,
- d. management measures to control vehicle activity,
- e. the emergency management of the movement of people within and surrounding the site,
- f. maintenance regime – ongoing maintenance of **landscaped areas**, external finishes and graffiti removal etc,
- g. security management – lighting, CCTV etc,
- h. the necessary operational and maintenance requirements of all landscaped areas on site. Such requirements must ensure that all landscaping is maintained in perpetuity, and
- i. requirement that the operator is responsible for the removal of any graffiti that may appear on any part of the external walls of the building and that it shall be removed within 48 hours of it appearing,
- j. **noise management for communal areas including a restriction on the use of the rooftop communal open space after 10pm and 7am.**

**The Operational Management Plan is to be included and complied with as part of the bylaws of any future subsequent strata committee. No change to these bylaws in terms of this plan of management are to be permitted without prior consultation with Council.**

#### • **Condition 85 – Operational Management Plan – Positive Covenant**

This condition has been added to ensure that the requirements of the Operation Management Plan as required by Condition 84 are applied to the development in perpetuity.

## New condition

Prior to the issue of any Occupation Certificate, a Positive Covenant is to be created under the Conveyancing Act 1919, requiring the property owner(s) to comply with the requirements of the Operational Management Plan required via condition No. 84 above in perpetuity.

Any amendments to the Operational Management Plan are to be undertaken in consultation with Shellharbour City Council. The Operational Management Plan is also to be included as part of any bylaws resulting from the future strata subdivision of the property.

- **Condition 95 (previously Condition 94) – Use of Ground Floor Level Tenancies**

This condition has been amended to ensure that the future uses of the ground floor tenancies are compatible with the waste/delivery service capacities of the site. The condition has also been amended to clarify the purpose of the condition.

### 94. Use of Ground Floor Level Tenancies

This approval grants consent for the use of the four (4) ground floor tenancies as shop top housing as defined in as defined in *Shellharbour Local Environmental Plan 2013*. The definition is as follows:

**“Shop top housing** means one or more dwellings located above the ground floor of a building, where at least the ground floor is used for commercial premises or health services facilities.”

This consent does not permit the use of the ground floor commercial/retail tenancies. The first use of each tenancy is to be the subject of a separate development application/s to Council.

## Amended condition with changes highlighted

### 95. Use of Ground Floor Level Tenancies

This approval grants consent for the use of the four (4) ground floor tenancies as shop top housing as defined in as defined in *Shellharbour Local Environmental Plan 2013*. The definition is as follows:

**“Shop top housing** means one or more dwellings located above the ground floor of a building, where at least the ground floor is used for commercial premises or health services facilities.”

~~This consent does not permit the use of the ground floor commercial/retail tenancies.~~ The first use of each tenancy is to be the subject of a separate development application/s to Council. ~~The use of these tenancies are not to be used for a purpose which would require significant or intensive servicing.~~

## **Attachment 1: (Amended) Conditions of Consent**

### **DEFERRED COMMENCEMENT**

Under section 4.16(3) of the Act, this development application has been determined by granting of Deferred Commencement consent, subject to the following matter(s):

- i. The Development Consent shall not operate until Council has been satisfied as to the following matters:

- a. Registration of Right of Carriageway and Easement for Electricity Purposes

The developer, at no cost to Council, must obtain easement/s over Lots 9, 10, 11, 12, 13, 14 and 15 DP 238804 and Lot B in DP 162686 for the purpose of a Right of Carriageway and Easement for Electricity Purposes. The easement/s must be generally in accordance with Right of Way, Easement and Public Carpark Works – Concept Plan, Drawing No. A-9003, Revision P20 prepared by Drew Dickson Architects dated 26 April 2022.

The Right of Carriageway should be a minimum of 6 metres wide or wider where necessary to allow for adequate access and vehicle circulation. The Easement for Electricity Purposes should be a minimum of 1.5 metres wide, or wider where necessary to allow for adequate access to, and provision of electricity supply and maintenance of that supply, within the easement.

The easement/s must be registered with Land Registry NSW.

- b. Registration of Easement for Access and Maintenance

The developer, at its own cost, must obtain easement over Lot 4 in DP 238804 for the purpose of maintenance and access. The easement must be generally in accordance with Right of Way, Easement and Public Carpark Works – Concept Plan, Drawing No. A-9003, Revision P20 prepared by Drew Dickson Architects dated 26 April 2022. The easement for access and maintenance is to be a minimum of 0.9 metres wide, or wider where necessary to allow adequate room for maintenance to the building to be undertaken.

The easement/s must be registered with Land Registry NSW.

- ii. The developer must satisfy Council, within 12 months of the date shown on the top of this consent, that the matters specified in condition number (i) have been complied with.
  - iii. If compliance with the matters contained in condition number (i) necessitate a substantial variation to the development approved by this deferred commencement consent, a new development application must be submitted.

**Once Council is satisfied that the matters contained in condition number (i) have been complied with and the developer has been notified in writing of such compliance, the following conditions shall apply in respect of the approved development:**

This development consent has been divided into different parts according to where, during the development process, each condition may be most relevant. Some conditions may be appropriate to more than one part. All conditions must be complied with.



## **PART A – ADMINISTRATIVE CONDITIONS**

### **1. Construction Certificate & PC Notification**

Before any site works, building or use is commenced, the person having the benefit of the development consent must:

- a. obtain a Construction Certificate from Shellharbour City Council or other accredited certifier, and
- b. appoint a Principal Certifier.

### **2. Prescribed Conditions**

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

### **3. Development in Accordance with Plans and Documents**

The development must be in accordance with the following approved Development Application plans and documents as endorsed by Council's stamp. Where there is an inconsistency between the approved plans/documentation and conditions of consent, the conditions of consent take precedence to the extent of the inconsistency.

<b>Name of Plan/Document</b>	<b>Prepared By</b>	<b>Drawing/Document No./Revision</b>	<b>Drawing/Document Date</b>
Site Plan	Drew Dickson Architects	A-0010, Rev G	21 April 2022
Demolition Plan	Drew Dickson Architects	A-0020, Rev G	21 April 2022
Basement 2 Floor Plan	Drew Dickson Architects	A-1001-1, Rev G	21 April 2022
Basement 1 Floor Plan	Drew Dickson Architects	A-1001-2, Rev G	21 April 2022
Ground Floor Plan	Drew Dickson Architects	A-1002, Rev G	21 April 2022
Level 1 Floor Plan	Drew Dickson Architects	A-1003, Rev G	21 April 2022
Level 2 Floor Plan	Drew Dickson Architects	A-1004, Rev G	21 April 2022
Level 3 Floor Plan	Drew Dickson Architects	A-1005, Rev G	21 April 2022
Level 4 Floor Plan	Drew Dickson Architects	A-1006, Rev G	21 April 2022
Roof Plan	Drew Dickson Architects	A-1007, Rev G	21 April 2022
Heritage Building – Conservation Works	Drew Dickson Architects	A-1008, Rev G	21 April 2022
Heritage Building Roof Plan – Conservation Works	Drew Dickson Architects	A-1009, Rev G	21 April 2022
North Elevation – Addison Street	Drew Dickson Architects	A-1200, Rev G	21 April 2022
East Elevation – Public Pathway	Drew Dickson Architects	A-1201, Rev G	21 April 2022
South Elevation – Public Car Park	Drew Dickson Architects	A-1202, Rev G	21 April 2022
West Elevation	Drew Dickson Architects	A-1203, Rev G	21 April 2022
Schedule of Finishes	Drew Dickson Architects	A-1204, Rev G	21 April 2022
Section 1	Drew Dickson Architects	A-1300, Rev G	21 April 2022
Section 2	Drew Dickson Architects	A-1301, Rev G	21 April 2022
Section 3	Drew Dickson Architects	A-1302, Rev G	21 April 2022
Detail Façade Sections	Drew Dickson Architects	A-1303, Rev G	21 April 2022
Detail Façade Sections	Drew Dickson Architects	A-1304, Rev G	21 April 2022
Pre & Post Adaptable Units – Sheet 1	Drew Dickson Architects	A-7900, Rev G	21 April 2022

Pre & Post Adaptable Units – Sheet 2	Drew Dickson Architects	A-7901, Rev G	21 April 2022
Ground Floor Concept	Paul Scrivener Landscape	1 of 4, Issue K	9 February 2022
Entry Detail & Section	Paul Scrivener Landscape	2 of 4, Issue K	9 February 2022
Level 4	Paul Scrivener Landscape	3 of 4, Issue K	9 February 2022
Soil Areas Plan	Paul Scrivener Landscape	4 of 4, Issue K	9 February 2022
Basement 2 Stormwater Plan	Demlakian	SW02 Rev P6	4 February 2022
Basement 1 Stormwater Plan	Demlakian	SW03 Rev P6	4 February 2022
Ground Floor Stormwater Plan	Demlakian	SW04 Rev P6	4 February 2022
Sediment & Erosion Control Plan & Details	Demlakian	SW05 Rev P6	4 February 2022
Plan of Proposed Consolidation of Lots 2 and 3 in DP 238804	David John Treman	71356DT	13 October 2021
Right of Way, Easement and Public Carpark Works – Concept Plan	Drew Dickson Architects	A-9003, Rev P20	26 April 2022
Temporary Protection Plan	Heritage 21	Job No. 9438H	April 2022
Construction Management Plan	Demlakian Consulting Engineers	-	12 April 2022
Conservation Management Plan	Heritage 21	Job. 9270	April 2022
Heritage Interpretation Panels	Drew Dickson Architects	Rev A	March 2022
BASIX Certificate*	JN Consulting	No: 1236414M_04	9 February 2022
NatHERS Certificate*	Senica Consultancy Group	#HR-JANWED-01	2 September 2021
Statutory Compliance Review	Local Consultancy Services	Ref 9025020.5	9 February 2022
Preliminary Investigation	Site Geosyntec Consultants	Ref 21196	28 September 2021
Geotechnical Investigation Report	Morrow Geotechnics Pty Ltd	Ref P2296_01_rev2	29 September 2021
Operational Waste Management Plan	Elephants Foot	No: SO1062, Rev D	29 September 2021
Updated Parking & Traffic Impact Assessment	Stanbury Traffic Planning	Ref 21-082-5	February 2022

\* The approved BASIX and NatHERS Certificate may only be updated, without the need to lodge a modification to the development consent, where any change to the BASIX Commitments does not result in the proposal being inconsistent with this development consent and/or alter the approved development application plans.

#### 4. Compliance with Notations on Drawings

Works must comply with any notations highlighted on the approved plans and specifications.

#### 5. Endeavour Energy

Correspondence has been received from Endeavour Energy dated 30 October 2021 and as attached to this consent at Part H.

In addressing this correspondence, each condition marked with a checked box applies to the development. Further information on each applicable clause is provided within Endeavour Energy's document 'Standard Conditions for Development Applications and Planning Proposals Revision 1 dated October 2021'. This document can be found on the Planning Portal under 'Agency Advice'.

## 6. Sydney Water

Correspondence has been received from Sydney Water dated 15 November 2021 and as attached to this consent at Part H.

## 7. House Numbering

House numbering will be as follows:

Commercial	Street Number	Street Name	Street Type	Locality
Commercial 1	Shop 1/33	Addison	Street	Shellharbour
Commercial 2	Shop 2/33	Addison	Street	Shellharbour
Commercial 3	Shop 3/33	Addison	Street	Shellharbour
Commercial 4	Shop 4/33	Addison	Street	Shellharbour
<b>Residential</b>				
Level 1 Units				
1-01	101/33	Addison	Street	Shellharbour
1-02	102/33	Addison	Street	Shellharbour
1-03	103/33	Addison	Street	Shellharbour
1-04	104/33	Addison	Street	Shellharbour
1-05	105/33	Addison	Street	Shellharbour
1-06	106/33	Addison	Street	Shellharbour
Level 2 Units				
2-01	201/33	Addison	Street	Shellharbour
2-02	202/33	Addison	Street	Shellharbour
2-03	203/33	Addison	Street	Shellharbour
2-04	204/33	Addison	Street	Shellharbour
2-05	205/33	Addison	Street	Shellharbour
Level 3 Units				
3-01	301/33	Addison	Street	Shellharbour
3-02	302/33	Addison	Street	Shellharbour
3-03	303/33	Addison	Street	Shellharbour
3-04	304/33	Addison	Street	Shellharbour
Level 4 Units				
4-01	401/33	Addison	Street	Shellharbour
4-02	402/33	Addison	Street	Shellharbour

- Addresses should be included on the Development Application plans, Construction Certificate and any future Strata Plans and ensure lot numbers on the Subdivision admin sheet are the same as Unit & house numbers on DA & construction plans.
- The allocated number must be displayed prior to occupation. Where plans and details are provided to service suppliers, numbers must be in accordance with the above.
- Letterboxes should be visible from the street and clearly numbered according to the address allocated with both unit and street numbers.

## 8. Utility Services

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

## **PART B - PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

### **9. Section 7.11 Development Contributions**

A contribution of \$248,150.85, subject to annual indexation, must be paid to Council towards the provision of public amenities and public services prior to the issue of the Construction Certificate. This amount has been calculated in accordance with *Shellharbour City Council's Local Infrastructure Contributions Plan 2019 9<sup>th</sup> Review 14 August 2019* in the following manner:

- Residential contribution – Precinct 2, Shellharbour - \$199,319.56
- Non-residential contribution - \$656.18
- Payment In Lieu of 7 Car Parking Spaces - \$48,175.11

Open Space contribution	\$	46,466.10
Community Infrastructure contribution	\$	133,821.79
Roads & Traffic Infrastructure contribution	\$	3,427.20
Drainage contribution	\$	NIL
Administration contribution	\$	15,604.47
Non-residential contribution	\$	656.18
Payment In Lieu of 7 Car Parking Spaces	\$	48,175.11
<b>Total contribution payable</b>	<b>\$</b>	<b>248,150.85</b>

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

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

### **10. Public Reserve Lot 4 DP 238804 – Public Access and Maintenance**

The Developer (at no cost to Council) must restore and make good Lot 4 DP 238804 following the development. Prior to the issue of any Construction Certificate, plans and specifications of the works to be undertaken in Lot 4 DP 238804, are to be submitted to Councils Manager Planning for approval.

The works must be inspected and completed to Council's satisfaction prior to the issue of any Occupation Certificate for the development.

### **11. Carpark Upgrade Works**

The developer, at no cost to Council must undertake the following works within Lot B in DP162686, Lots 13, 14 and 15 in DP238804:

- a. Upgrade the existing driveway crossover at the intersection of Allen's Lane and Mary Street;
- b. Pedestrian footpath and
- c. Line marking to provide a loading zone

Prior to the issue of any Construction Certificate, plans and specifications of the above works are to be undertaken are to be submitted to the Shellharbour Traffic Committee for approval.

The works must be inspected and completed to Council's satisfaction prior to the issue of any Occupation Certificate for the development.

## **12. Development Assessment - SEPP 65 Design Verification Statement**

A certifying authority must not issue a construction certificate for residential flat development unless the certifying authority has received a design verification from a qualified designer, being a statement in which the qualified designer verifies that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out in Part 2 of -State Environmental Planning Policy No 65 Design Quality of Residential Flat Development

<http://www.legislation.nsw.gov.au/xref/inforce/?xref=Type%3Dipi%20AND%20Year%3D2002%20AND%20No%3D530&nohits=y>.

## **13. Long Service Levy**

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

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

## **14. Building Upgrade Requirements**

Pursuant to section 4.15 of the *Environmental and Planning and Assessment Act, 1979* and clause 94 of the *Environmental and Planning and Assessment Regulation, 2000*, the existing heritage building is to be upgraded as following:-

- a. Undertake works in accordance with the comments contained within the report entitled *Statutory Compliance Review* (reference no. 9025020.5, dated 9/2/2022 prepared by Andrew Vukovich).
- b. Provide sanitary facilities as required by and compliant with D1.13 and Part F2 of the National Construction Code Series- Building Code of Australia (Vol 1) for the intended use of the commercial tenancies and population of staff and patrons accommodated.

This condition may alternatively be satisfied with a formulated performance solution satisfying the requirements of clause A2.2 and A2.4 of the National Construction Code Series- Building Code of Australia (Vol 1).

Prior to release of the construction certificate, submit to the appointed Principal Certifier design details addressing this condition.

## **15. Detailed Drainage Design**

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

- a. be generally in accordance with Stormwater Plan 221024 prepared by Demlakian Engineering on 4/02/2022,
- b. drain to the street,

- c. indicate the method of disposal of all stormwater and must include existing ground levels, finished surface levels on all paved areas, estimated flow rates, invert levels and size of all pipelines,
- d. be to satisfaction of the Certifying Authority,
- e. be designed to cater for a 1 in 20 year Average Recurrence Interval storm event,
- f. overflow drainage paths are to be provided and be designed to cater for a 1 in 100 year Average Recurrence Interval storm event,
- g. comply with Council's *Shellharbour Development Control Plan (Chapter 25 & Appendix 12)* unless variation is specifically noted and approved on DA concept drainage plan.

#### **16. Stormwater Conduit in Road Reserve and Connection with Kerb**

Where the existing connection point is not available in either normal kerb and gutter or roll type kerb and gutter, the kerb must be saw cut to provide for the connection of the pipe. The saw cut must ensure that a minimum of 50mm of cover is available on all 3 sides of the pipe to permit adequate strength and thickness for the concrete finish.

Galvanized steel pipe, sewer grade UPVC pipe or 'Corflow' spirally reinforced PVC pipe must be used from the property boundary to the kerb and gutter. The kerb and gutter connection must be a 100mm diameter galvanised steel circular section for 150mm kerb and gutter or a 150mm x 50mm galvanised rectangular steel section for roll kerb ensuring that the galvanised section is fully encased by concrete.

A maximum of two pipes of 100mm diameter may be used to discharge to the kerb and gutter.

#### **17. Pit Grates**

All pits must have flush fitting grates. All pits larger than 600mm x 600mm are to be grated galvanised steel grid hinged and be heavy duty type where traffic loading is expected.

#### **18. Retaining Wall Structural Engineer**

Where a retaining wall exceeds 600mm in height, the wall must be designed by a practising structural engineer and a Construction Certificate must be obtained prior to the commencement of work on the retaining wall.

#### **19. Engineer Designed Pavement**

All car parking areas, manoeuvring areas and the access aisle must be paved, drained and marked.

The pavement must be designed by a qualified civil engineer and certified to be satisfactory for the expected traffic loadings from a development of this size and type. AUSTROADS Guide to Pavement Technology can be used as the design guideline for the pavement design.

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

## **20. Building Plan Approval - Sydney Water**

The approved plans must be submitted to a Sydney Water Tap in™ to determine whether the development will affect Sydney Water wastewater and water mains, stormwater drains and/or easements, and if any requirements need to be met. Sydney Water's Tap in™ online service is available at:

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

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

## **21. Required Design Changes**

The following design changes are required and are to be incorporated into the plans to be lodged with the Construction Certificate application.

- a. The architectural plans are to be amended to depict the configuration of the decking and associated landscaping located between the heritage building and the western side property boundary (trees located in the center of the area) as detailed in the approved landscape plan;
- b. The landscape plans are to be revised to reflect the final architectural plans with the exception of (a) above; and
- c. The location of the services room (housing air conditioning units) that is opposite the communal open space is to be relocated so all louvres and associated air conditioning ventilation areas are oriented to the south (public car park). The landscaping to the public car park is to be omitted for this to occur.

## **22. Car Wash Bay**

Residential visitor space No. 9 located on Basement 1 shall be provided as a car wash bay for the use of the residents.

Plans and specifications of the car washing system which has been approved by Sydney Water must be submitted with the application for the Construction Certificate. The car wash bay area must be provided with a tap and bunded with pre-treatment approved by Sydney Water. The water from the car wash bay must be graded to a drainage point and connected to sewer.

If alternative water management and disposal options are proposed (i.e. where water is recycled, minimised or reused on the site), detailed plans and specifications of the water recycling system must be submitted with the application for the Construction Certificate for approval.

## **23. Slip Resistance- Commercial, Retail & Residential Developments**

All pedestrian surfaces in areas such as foyers, public corridors/hallways, stairs and ramps as well as floor surfaces in the wet rooms in any commercial/retail/residential units must have slip resistance classifications, as determined using test methods in either wet or dry conditions, appropriate to their gradient and exposure to wetting. The classifications of the new pedestrian surface materials, in wet or dry conditions, must comply with

AS/NZS4586:2004 - Slip Resistance Classifications of New Pedestrian Materials and must be detailed on the plans lodged with the application for the Construction Certificate.

## **24. Residential - Waste Management**

The following waste facilities will be required:-

- a. General Waste: 6 x 660L – serviced weekly
- b. Recycling: 6 x 660L – serviced weekly
- c. FOGO: 3 x 240L – serviced weekly

All waste and recycling containers are to be stored in an approved waste storage area that is large enough to store the required number of bins, appropriate for the number of units and intended uses of the building, and is to be located in an area of the building that can be adequately serviced by waste collection vehicles.

Details of the Waste Storage Area must be illustrated on the plans submitted with the application for the Construction Certificate.

## **25. Commercial - Waste Management**

The following waste facilities will be required:-

- a. General Waste: 2 x 660L MGBs – serviced weekly
- b. Paper/cardboard: 3 x 660L MGBs – serviced fortnightly
- c. Commingles recyclables: 2 x 660L MGBs – serviced fortnightly

All waste and recycling containers are to be stored in an approved waste storage area that is large enough to store the required number of bins, appropriate for the number of units and intended uses of the building, and is to be located in an area of the building that can be adequately serviced by waste collection vehicles.

If the Waste Storage Area is located in a part of the building that cannot be easily accessed by service providers, it will be the responsibility of the Owners Corporation to arrange alternative arrangements.

Details of the Waste Storage Area must be illustrated on the plans submitted with the application for the Construction Certificate.

## **26 Demolition and Construction Management Plan (DCMP)**

Prior to the issue of any Construction Certificate, a Demolition and Construction Management Plan must be submitted with the application for any Construction Certificate, and must include the following measures:

- a. dedicated construction site entrances and exits, controlled by a traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways;
- b. turning areas within the site for construction and spoil removal vehicles, allowing a forward entry and egress for all construction vehicles on the site;
- c. the location of proposed Work Zones in the egress frontage roadways;
- d. location of any proposed crane standing areas;



- e. a dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries;
- f. material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected;
- g. the provisions of an on-site parking area for employees, tradesperson and construction vehicles as far as possible, or other arrangements to ensure that employees, tradesperson and construction vehicles are not parking within the adjoining car parking area;
- h. a detailed description and route map of the proposed route for vehicles involved in spoil removal and demolition material removal material delivery and a copy of this route is to be made available to all contractors;
- i. a detailed description of locations that will be used for layover for trucks waiting to access the construction site;
- j. construction program that references peak construction activities and proposed construction;
- k. any potential impact to general traffic, cyclists, pedestrians and bus services within the vicinity of the site from construction vehicles during the construction of the proposed works;
- l. alignment with the approved waste management plan and any requirements for the disposal of contaminated waste materials;
- m. location of protective site fencing, including tree protection methods;
- n. location of site storage areas/offices/equipment;
- o. management of Fuels and Chemicals;
- p. unexpected contamination finds and stop work protocols;
- q. cultural heritage stop work protocol;
- r. location of building materials for construction, e.g. stockpiles;
- s. provisions for public safety;
- t. provisions for temporary sanitary facilities;
- u. location and size of waste containers/skip bins;
- v. method used to provide construction noise and vibration management;
- w. methodology utilised for the protection of the Heritage item on the site and on nearby sites;
- x. construction traffic management details consistent with other required amendments.

The site management measures are to be implemented prior to the commencement of any works including demolition and excavation. The site management measures are to be maintained throughout the works, to maintain reasonable levels of public health, safety and amenity. A copy of the Construction Management Plan must be retained on site and is to be made available upon request.

It is the developer's responsibility to adequately inform all construction workers, sub-contractors and supervisors to ensure that the Construction Traffic Management procedures are adhered to at all times.

## **27. Sediment and Erosion Controls**

Sediment and erosion controls are to be installed as outlined in the Construction Environmental Management Plan/sediment erosion control plan and maintained appropriately throughout construction.

## **28. Construction Traffic Management Plan (CTMP)**

Prior to the release of Construction Certificate, a CTMP detailing vehicle routes, number of trucks, access arrangements, impact on pedestrians and traffic control must be prepared and provided to the Principal Certifier.

The regular use of the public vehicle parking area (Addison and Mary Street) for construction workers vehicles is not supported. The applicant must make alternate arrangements that do not rely on the public car park.

It is the developer's responsibility to adequately inform all construction workers, sub-contractors and supervisors to ensure that the Construction Traffic Management Plan procedures are adhered to at all times.

## **29. Vibration Control Plan**

A Vibration Control Plan that ensures vibration remains within acceptable levels and minimises the potential effects of vibration must be submitted to the Principal Certifying Authority for approval, prior to the release of the Construction Certificate.

The plan must detail monitoring to be implemented and alarm levels selected in accordance with the type of structures present within the zone of influence of the proposed excavation.

## **30. Site Facilities - Australia Post**

- a. Location points for mail delivery must satisfy the requirements of Australia Post.
- b. Street numbers must be obtained from Council's GIS Department during normal office hours, prior to the issue of a Construction Certificate. The allocated street numbers must be clearly shown on the Construction Certificate drawing.
- c. Mail boxes at the front door must be lockable by separate keys, using locks that cannot be opened by common master keys. The mailbox area is to be well lit and secured by the main entry door not accessible to external patrons.

## **31. Lighting**

Any lighting of the premises shall be installed and maintained in accordance with Australian Standard AS 4282-1997: Control of the Obtrusive Effects of Outdoor Lighting so as to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads.

## **32. Pavement Materials of Footway Area**

The footway area between the adopted building line and the kerb and gutter in Addison Street, must be paved for its full width. Plans are to be submitted for review and approval by the Certifying Authority prior to the release of the Construction Certificate demonstrating compliance.

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

## **PART C - PRIOR TO COMMENCEMENT OF WORKS**

### **33. Heritage – Temporary Protection Plan**

All of the recommendations contained in the Temporary Protection Plan prepared by Heritage 21 dated April 2022 shall be fully complied with. The implementation of the protection measures must be supervised by the project Heritage Consultant. Details of compliance must be demonstrated to the satisfaction of the Principal Certifier prior to the commencement of any works.

### **34. Erosion & Runoff Controls**

Before work starts, appropriate erosion and runoff controls must be installed to prevent soil erosion, water pollution or the discharge of loose sediment on surrounding land, stormwater systems or watercourses.

These controls may include the following (where applicable):

- a. erect a silt fence,
- b. limit the removal or disturbance of vegetation and topsoil,
- c. divert uncontaminated run-off around cleared or disturbed areas,
- d. install sediment traps/socks around any stormwater inlets and drainage lines,
- e. stockpile topsoil, excavated material, construction and landscaping materials and debris within the site. These should be covered or seeded to prevent loss of these materials,
- f. provide a single vehicle access to the site including measures to prevent the tracking of sediment off the site, and
- g. provide adequate control measures to suppress dust.

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

### **35. Dilapidation Report**

It is the applicant's responsibility to notify Council of any existing damage to public areas in the vicinity of the development site through the submission of a Dilapidation Report. The report must be supported with suitable photographic records. This information must be submitted to Council prior to the commencement of work.

### **36. Protection of Public Places**

Where the work involves the erection or demolition of a building and the work is likely to or will cause pedestrian or vehicular traffic in public places (e.g. a footpath) to be obstructed, diverted, rendered inconvenient and enclosed, or similar, a Class B hoarding must be erected between the work site and/or over the public place.

If existing pedestrian access is impeded or obstructed, safe alternate provision must be provided.

If a hoarding is not necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place. Any hoarding, fence or awning must be removed when the work has been completed.

Any proposed hoarding, fence or awning proposed within the road reserve will require a specific approval under section 138 of the *Roads Act 1993*. An application fee will apply in accordance with Council's Fees and Charges.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

### **37. Shoring and Adequacy of Adjoining Properties**

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

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

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

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

### **38. Use of Airspace – Approval under Roads Act 1993**

The granting of development consent does not provide a right of occupation of the Public Road (ie awning/verandah/balcony).

The use of the airspace requires a lease under S149 of the *Roads Act 1993*. An application for use of the airspace required the approval of the Director General of the Department of Planning and Infrastructure (DP&I). Documentary evidence from the DP&I must be submitted to the Principal Certifying Authority validating that the process of obtaining approval has been initiated prior to obtaining a Construction Certificate.

Post receipt of approval from the Director General, application must be made to the Council for a lease. Fees and charges will apply in accordance with the adopted fees and charges prevailing at the time.

### **39. Structural Details**

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

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

### **40. Section 138 Roads Act 1993**

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

- If a driveway is proposed, a Driveway Application must be made, or

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

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

#### **41. Public Liability**

Prior to the commencement of works over Council's land, the owner or contractor must provide evidence to Council of a Public Risk Insurance Policy with a minimum cover of \$20M in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works. The Policy is to note Council as an interested party.

### **PART D - DURING CONSTRUCTION WORKS**

#### **42. Hours for Carrying Out of Any Work**

Construction may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or public holiday.

#### **43. Compliance with Report Recommendations**

- a. The recommendations contained within the Geotechnical Investigation Report prepared by Morrow Geotechnics Pty Ltd dated 29 September 2021 are to be fully complied with.
- b. The recommendations of the approved Preliminary Site Investigation prepared by Geosyntec Consultants dated 28 September 2021 are to be complied with, including the preparation of a hazardous materials survey and the disposal of excavated materials from the site.

Details demonstrating compliance shall be submitted to the Principal Certifier.

#### **44. Maintenance of Erosion & Runoff Controls**

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

Maintenance must include but is not limited to ensuring:

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

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

#### **45. Retaining Wall on Boundary**

All retaining walls must be located wholly within the property, including footings and agricultural drainage lines. Construction of retaining walls or associated drainage work along common boundaries must not compromise the structural integrity of any existing structures.

#### **46. Works In, On or Over a Public Road**

In accordance with section 142(i)(a) of the *Roads Act 1993* the person who has a right to the control, use or benefit of a structure or work in, on or over a public road (namely a footpath crossing), must maintain the structure or work in a satisfactory state of repair.

#### **47. Heritage**

All works as recommended within the approved Temporary Protection Plan prepared by Heritage 21 dated 29 April 2022 and works recommended to be undertaken as part of the construction works within Part 10 of the approved Conservation Management Plan prepared by Heritage 21 dated 29 April 2022 are to be undertaken during the works.

#### **48. Construction In Public Laneway**

During any demolition and construction in the public laneway (Lot 4 DP 238804), an Arborist is to supervise works and ensure measures are undertaken to minimise root damage to the *Brachychiton acerfolius* located on the western boundary of Lot 5 DP 238804.

#### **49. Demolition and Construction Management Plan (DCMP)**

All measures outlined in the DCMP are to be adhered to throughout the construction phase of the development.

#### **50. Waste Management**

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

#### **51. Storage of Materials**

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

#### **52. Survey Certification**

A report from a registered surveyor must be provided to the Principal Certifier on completion of the ground floor slab formwork prior to the concrete being poured and/or prior to external walls being raised above ground floor level where there is no ground floor slab.

The report must certify all of the following:

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

Australian Height Datum must be used.

#### **53. Building Height - Survey Certification**

The building must not exceed the height shown on the approved plans.

A report from a registered surveyor must be provided to the Principal Certifier on completion of the roof frame, prior to covering the roof, certifying that the height of the building is in accordance with the approved plans.

#### **54. Cut/Fill**

The cut and fill areas must:

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

#### **55. Open or Occupy a Roadway or Footpath (Section 138 Roads Act 1993)**

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

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

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

#### **56. Redundant Driveway from Kerb to Property Boundary**

All redundant vehicular concrete driveway must be removed and the area appropriately turfed and/or paved in a manner that conforms with the adjoining road reserve. The area forward of the front boundary must be kept smooth, even and free from any trip hazards. This work must be carried out by Council, or a Council approved contractor, at the developer's expense, including all alterations of public infrastructure where necessary.

#### **57. Redundant Vehicular Layback**

All redundant vehicular layback crossing/s must be removed and replaced with kerb and gutter to match existing. This work must be carried out by Council, or a Council approved contractor, at the developer's expense, including all alterations of public infrastructure where necessary.

#### **58. Contamination - Unexpected Finds Contingency**

Should any contamination or suspect material be encountered during the hazardous materials survey, site preparation, earth works, construction or any other stage of the development, then works must cease immediately and a suitably qualified consultant engaged to conduct a thorough contamination assessment.

In the event that contamination remediation is required, all works must cease and the Council must be notified immediately. The contamination assessment must be submitted to Council for Approval.

All recommendations provided in the contamination assessment must be followed as stipulated.

#### **59. Demolition - WorkCover, AS2601 & Work Health and Safety Act 2011**

Demolition work must:

- a. be carried out in accordance with the requirements, of the WorkCover Authority of New South Wales
- c. be carried out in accordance with the Work Health and Safety Act 2011
- d. be carried out by a WorkCover licensed contractor where demolition work involves the removal of any materials containing asbestos, and
- e. be carried out in accordance with the provisions of AS 2601-2001: The Demolition of Structures (or subsequent edition/s).

#### **60. Demolition – Heritage**

Demolition of the building known as the former Allen's store building is limited to that documented on the approved plans and identified in the Conservation Management Plan prepared by Heritage 21 dated April 2022.

No approval is given or implied for removal and/or rebuilding of any portion of the existing building which is not shown to be altered, replaced or demolished. Any additional demolition works requires prior written approval from Council's Heritage Advisor.

#### **61. Unexpected Finds - Archaeological Deposits or Relics**

The applicant must ensure that if any unexpected archaeological deposits or relics not identified and considered in the supporting documents for this approval are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified as required by s146 of the *Heritage Act 1977*. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

#### **62. Protection of Property**

The structural integrity of adjoining properties and structures must be protected at all times during construction. All costs associated to any ramification works are strictly borne on the developer

#### **63. Records of Disposal**

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

### **PART E - PRIOR TO OCCUPATION**

#### **64. Occupation Certificate**

Compliance with all conditions of Parts A to E must be verified by the Principal Certifier prior to issue of a final Occupation Certificate. The building must not be used until the Principal Certifier issues an Occupation Certificate.



## **65. Heritage - Conservation Management Plan**

All of the recommendations and works contained in the Conservation Management Plan shall be fully complied with. Details of compliance must be demonstrated to the Principal Certifier prior to the issue of the Occupation Certificate.

## **66. Consolidation of Lots**

Prior to the issue of any Occupation Certificate, written evidence from the Land Registry NSW, must be provided to the Principal Certifier, showing Lot 2 DP 238804 and Lot 3 DP 238804 consolidated into one (1) allotment. The easement for eaves burdening Lot 3 DP 238804 and benefitting Lot 2 DP 238804 is to be extinguished at time of consolidation.

## **67. Section 73 Certificate**

A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water. This Section 73 Certificate must be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

It is recommended that applicants apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

Application must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Land development or telephone 13 2092.

## **68. Building Upgrade Requirements**

All building upgrade requirements prescribed by this consent are to be completed prior to the issue of an Occupation Certificate.

## **69. BASIX**

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

## **70. Works As Executed - Stormwater Drainage**

Prior to the issue of an Occupation Certificate, Works As Executed Plans must be submitted to the Certifying Authority by a registered surveyor certifying compliance of all drainage works with the approved design plans. The Works As Executed dimensions and levels must be shown in red on a copy of the approved Construction Certificate plans. This plan must verify surface and invert levels on all pits, invert levels and sizes of all pipelines, and finished surface levels on all paved areas. All levels must relate to Australian Height Datum. These plans must be accompanied by a compliant ADAC XML digital file. All details to be in accordance with the ADAC Data Capture Guidelines specifications, which is available on Council's website.

## **71. Verification of Waste Management**

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

## **72. Landscaping Irrigation of Common Landscape Areas**

All common and private landscape areas including all planters are to have full coverage by a fully automatic irrigation system. The design, materials and installation are to be in accordance with Sydney Water Codes and satisfy all relevant Australian Standards. Details demonstrating compliance shall be submitted to the Principal Certifying Authority, prior to the issue of any Occupation Certificate.

## **73. Completion of Landscape Works**

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

All furniture (table, chairs, BBQ facilities, benches) detailed in the landscape plans are to be installed with anti-theft provisions, including but not limited to being bolted to a permanent surface.

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

## **74. Site Facilities – Common Open Space**

Prior to the issue of an Occupation Certificate, the Common Open Space area must be completed, including embellishments (fixed furniture and BBQ as shown on landscape plans).

## **75. Repairs to Public Infrastructure**

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

## **76. Sign for Visitor Parking**

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

## **77. Line marking of Car Parking Spaces - Major Development**

All car parking spaces are to be line marked in accordance with AS1742, 'Australian Standard Manual of Uniform Traffic Control Devices and RMS's guidelines.

## **78. Heritage Interpretation Panels**

Plans with the specifications, materials, text and images for the heritage interpretation panels to be located on the eastern side of the building are to be submitted and approved by Council.

The Heritage Interpretation Panels are to be installed to the satisfaction of Council. Written confirmation from Council that this condition has been satisfied is to be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.

All costs associated with the preparation and installation of the heritage interpretation panels are to be borne by the developer.

#### **79. Approved External Materials & Colours**

All external materials, finishes and colours are to be consistent with the schedule submitted and approved by Council with the development application. Details demonstrating compliance must be submitted to the satisfaction of the Principal Certifier prior to the issue of the Occupation Certificate.

#### **80. SEPP 65 Design Verification Statement**

A certifying authority must not issue an occupation certificate to authorise a person to commence occupation or use of residential flat development unless the certifying authority has received a design verification from a qualified designer, being a statement in which the qualified designer verifies that the residential flat development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to the design quality principles set out in Part 2 of -State Environmental Planning Policy No 65Design Quality of Residential Flat Development

<http://www.legislation.nsw.gov.au/xref/inforce/?xref=Type%3DDepi%20AND%20Year%3D2002%20AND%20No%3D530&nohits=y>

#### **81. Intercom for Parking Levels**

The basement parking levels must be accessible to residential visitors and residents by the location of an intercom (or card controller system) at the car park entry and wired to all units. The intercom must comply with Australian Standards AS1428.2-1992: Design for access and mobility - Enhance and additional requirements - Building and facilities Sections 22 and 23.

Such access control must be installed prior to the issue of the Occupation Certificate.

#### **82. Building - Fire Safety Certificate before Occupation or Use**

In accordance with Clause 153 of the *Environmental Planning and Assessment Regulation 2000*, on completion of building works and prior to the issue of an Occupation Certificate, the owner must cause the issue of a Final Fire Safety Certificate in accordance with Clause 170 of the aforesaid Regulation. The Fire Safety Certificate must be in the form or to the effect of Clause 174 of the *Environmental Planning and Assessment Regulation, 2000*. In addition, in relation to each essential fire or other safety measure implemented in the building or on the land on which the building is situated, such a Certificate is to state:

- a. That the measure has been assessed by a person (chosen by the owner of the building) who is properly qualified to do so.
- b. That as at the date of the assessment the measure was found to be capable of functioning at a standard not less than that required by the attached Schedule.

A copy of the certificate is to be given (by the owner) to the Commissioner of Fire & Rescue NSW and a further copy is to be displayed in a frame and fixed to a wall inside the buildings main entrance.

#### **83. Operational Waste Management Plan**

The developer shall prepare an Operational Waste Management Plan which addresses all

operational waste management procedures to be employed, to ensure that the all uses, can operate safely and without disturbance to the surrounding locality

Matters to be addressed include (but are not limited to):

- a. The collection of waste and recycling must only occur between 7.00am and 8.00pm weekdays, to avoid noise disruption to the surrounding area,
- b. Waste collection vehicles must enter and leave the site in a forward direction;
- c. Garbage and recycling must be collected wholly within the site. The waste collection vehicle must park in the designated loading bay.
- d. At no time are any waste bins be presented the kerbside of Addison Street, or Allens Lane.
- c. The bins must be presented within the designated residential/commercial waste removal pick up zone as illustrated on the approved plans,
- d. The respective residential and business bin storage areas must be in compliance with approved plans.
- e. Requirement that all bins must be cleaned on a regular basis by building management,
- f. Practical measures are also to be taken to ensure that odour emission from the garbage storage area does not cause offensive odour as defined under the provision of the *Protection of the Environment Operations Act, 1997* (as amended),
- g. For any future food and drink premises, used oil shall be contained in a leak proof container and stored in a covered and bunded area prior to off-site disposal. Copies of receipts for the disposal of used cooking oil shall be kept on-site and made available to Council Officers upon request,
- h. The Waste Management Plan - Operational must be available to all residents and tenancies, and
- i. All commercial waste removal to be undertaken by a private contractor, unless otherwise agreed by Council in writing. The waste collection vehicle must enter the site from the public car park accessible via Mary Street.

#### **84. Operational Management Plan**

The developer shall prepare an Operational Management Plan which addresses all operational and management procedures to be employed, to ensure that the all uses, can operate safely and without disturbance to the surrounding locality.

Matters to be addressed include (but are not limited to):

- a. hours of operation of the various uses within the business/retail premises,
- b. noise emissions generated by mechanical plant to satisfy criteria set out in the EPA's *Industrial Noise Policy 2000*,
- c. management of deliveries, all loading and unloading operations associated with servicing the site must be carried out within the confines of the site, at all times and must not obstruct other properties/units or the public way,
- d. management measures to control vehicle activity,
- e. the emergency management of the movement of people within and surrounding the site,
- f. maintenance regime – ongoing maintenance of landscaped areas, external finishes and graffiti removal etc,

- g. security management – lighting, CCTV etc,
- h. the necessary operational and maintenance requirements of all landscaped areas on site. Such requirements must ensure that all landscaping is maintained in perpetuity, and
- i. requirement that the operator is responsible for the removal of any graffiti that may appear on any part of the external walls of the building and that it shall be removed within 48 hours of it appearing,
- j. noise management for communal areas including a restriction on the use of the rooftop communal open space after 10pm and 7am.

The Operational Management Plan is to be included and complied with as part of the bylaws of any future subsequent strata committee. No change to these bylaws in terms of this plan of management are to be permitted without prior consultation with Council.

#### **85. Operational Plan of Management – Positive Covenant**

Prior to the issue of any Occupation Certificate, a Positive Covenant is to be created under the Conveyancing Act 1919, requiring the property owner(s) to comply with the requirements of the Operational Management Plan required via condition No. 84 above in perpetuity.

Any amendments to the Operational Plan of Management are to be undertaken in consultation with Shellharbour City Council. The Operational Management Plan is also to be included as part of any bylaws resulting from the future strata subdivision of the property.

#### **86. Security Cameras**

Security cameras are to be installed that provide coverage of the whole of the ground level and basement carpark, and all main external entries at Addison Street and Public Car Park.

The cameras must be operational 24 hours 7 days a week, must be able to be monitored within a common room and must remain in place for the perpetuity of the consent.

### **PART F - PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE**

Not Applicable

### **PART G - AFTER ISSUE OF OCCUPATION CERTIFICATE/DURING OCCUPATION**

#### **87. BASIX Commitments**

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

#### **88. Maintenance of Landscaping**

All trees and plants forming part of the landscaping must be maintained on an on-going basis. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilizing, pest and disease control and any other operations required to maintain healthy trees, plants and turfed areas.

#### **89. Noise Control**

The use of the premises must not give rise to the transmission of offensive noise to any place

of different occupancy. Offensive noise is defined in the *Protection of the Environment Operations Act 1997* (as amended).

## **90. Signage**

No signage is approved as part of this consent. Signage must not be erected or displayed without first gaining development consent from Council, unless carried out under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

## **91. Building - Annual Fire Safety Statement**

In accordance with Clause 177 of the Environmental Planning and Assessment Regulation, 2000 the owner of the building premises must cause the Council to be given an annual fire safety statement in relation to each essential fire safety measure implemented in the building. The annual fire safety statement must be given:

- a. Within 12 months after the date on which the fire safety certificate was received.
- b. Subsequent annual fire safety statements are to be given within 12 months after the last such statement was given.
- c. An annual fire safety statement is to be given in or to the effect of Clause 181 of the Environmental Planning and Assessment Regulation, 2000.
- d. A copy of the statement is to be given to the Commissioner of Fire & Rescue NSW, and a further copy is to be prominently displayed in the building.

## **92. Waste – Responsibility of Owners Corporation**

The Owners Corporation shall be responsible for presenting all approved waste and recycling receptacles for collection, and returning all receptacles to the Main Waste Collection Room, as soon as practicable after they have been serviced.

The Owners Corporation shall also be responsible for maintaining all equipment, systems, facilities and storage areas used in conjunction with the provision of waste management services in accordance with all applicable regulatory requirements, relevant health and environmental standards, and to the satisfaction of Council.

## **93. Heritage Interpretation Panels – Responsibility of Owners Corporation**

The Owners Corporation shall be responsible for the ongoing maintenance, repairs and upkeep of the heritage interpretation panels located on the eastern elevation of the building unless written approval is obtained from Council.

The complete replacement of any heritage interpretation panels including change of text/images must have written approval from Council.

## **94. Allocation of Visitor Parking**

All eight (8) visitor car parking spaces must always be available for visitor parking and must not at any time be allocated, sold or leased to an individual owner/occupier. In this regard, the visitor car parking spaces must form part of the common property in the strata subdivision.

## **95. Use of Ground Floor Level Tenancies**

This approval grants consent for the use of the four (4) ground floor tenancies as shop top housing as defined in as defined in *Shellharbour Local Environmental Plan 2013*. The definition is as follows:

***“Shop top housing means one or more dwellings located above the ground floor of a building, where at least the ground floor is used for commercial premises or health services facilities.”***

The first use of each tenancy is to be the subject of a separate development application/s to Council. The use of these tenancies are not to be used for a purpose which would require significant or intensive servicing.

## **96. Parking Spaces – Number & Allocation**

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

- a. 34 residential parking spaces – Minimum of 1 and maximum of 2 car parking spaces per unit.
- b. 2 spaces for the retail/business
- c. 8 residential visitor parking spaces (including 1x car wash bay)
- d. 7 bicycle spaces

## **97. Outdoor Lighting**

Outdoor lighting must comply with AS 4282-1997: Control of the obtrusive effects of outdoor lighting. The maximum luminous intensity from each luminaire must not exceed the Level 1 control relevant under Table 2.2 of AS 4282. The maximum illuminance and the threshold limits must be in accordance with Table 2.1 of AS 4282

## **98. Enclosure of Balconies**

At no time shall any of the Balcony's within the development site be enclosed.

## **99. Entering and Exiting of Vehicles**

All vehicles shall enter and exit the premise in a forward direction.

## PART H – OTHER APPROVALS

### 100. Endeavour Energy

#### Development Application and Planning Proposal Review NSW Planning Portal Concurrence and Referral



Authority	Authority's Reference	Agency Concurrence and Referral	Authority Contact	Authority Notification	Submission Due	Submission Made
Shellharbour City Council	DA0616/2021	CNR-29984	Nicole Doughty	19/10/2021	9/11/2021	30/10/2021

Address	Land Title
31-35 ADDISON STREET, SHELLHARBOUR 2529	Lots 2 & 3 DP 238804

Scope of Development Application or Planning Proposal
Demolition of 1 existing structure and retain 1 Heritage dwelling. Construct Residential flat building with Commercial to ground level with 2 levels of basement parking.

As shown in the below site plan from Endeavour Energy's G/Net master facility model:
<p>There are:</p> <ul style="list-style-type: none"><li>• No easements benefitting Endeavour Energy (active easements are indicated by red hatching).</li><li>• Low voltage overhead power lines including a pole to the road verge / roadway.</li><li>• Low voltage underground power lines in the eastern adjoining laneway (Lot 4 DP 238804) which are protected works.</li><li>• Low voltage overhead service conductors coming from the poles on the road verge going to the customer connection points for the existing premises.</li></ul>



Relevant / applicable clause numbers from Endeavour Energy's standard conditions for Development Application and Planning Proposal Review indicated by ☒ .

Condition	Advice	Clause No.	Issue	Detail
<input type="checkbox"/>	<input type="checkbox"/>	1	Adjoining Sites	Adjoining or nearby development / use should be compatible with the use of Endeavour Energy's sites.
<input type="checkbox"/>	<input type="checkbox"/>	2	Asbestos	Area identified or suspected of having asbestos or asbestos containing materials (ACM) present in the electricity network.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	3	Asset Planning	Applicants should not assume adequate supply is immediately available to facilitate their proposed development.
<input type="checkbox"/>	<input type="checkbox"/>	4	Asset Relocation	Application must be made for an asset relocation / removal to determine possible solutions to the developer's requirements.
<input type="checkbox"/>	<input type="checkbox"/>	5	Bushfire	Risk needs to be managed to maintain the safety of customers and the communities served by the network.
<input type="checkbox"/>	<input type="checkbox"/>	6	Contamination	Remediation may be required of soils or surfaces impacted by various forms of electricity infrastructure.
<input type="checkbox"/>	<input type="checkbox"/>	7	Construction Management	Integrity of electricity infrastructure must be maintained and not impacted by vehicle / plant operation, excessive loads, vibration, dust or moisture penetration.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	8	Demolition	All electricity infrastructure shall be regarded as live and care must be taken to not interfere with any part of the electricity network.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	9	Dial Before You Dig	Before commencing any underground activity the applicant must obtain advice from the Dial Before You Dig 1100 service.
<input type="checkbox"/>	<input type="checkbox"/>	10	Dispensation	If a proposal is not compliant with Endeavour Energy's engineering documents or standards, the applicant must request a dispensation
<input type="checkbox"/>	<input type="checkbox"/>	11	Driveways	For public / road safety and to reduce the risk of vehicle impact, the distance of driveways from electricity infrastructure should be maximised.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	12	Earthing	The construction of any building or structure connected to or in close proximity to the electrical network must be properly earthed.
<input type="checkbox"/>	<input type="checkbox"/>	13	Easement Management	Preference is for no activities to occur in easements and they must adhere to minimum safety requirements.
<input type="checkbox"/>	<input type="checkbox"/>	14	Easement Release	No easement is redundant or obsolete until it is released having regard to risks to its network, commercial and community interests.
<input type="checkbox"/>	<input type="checkbox"/>	15	Easement Subdivision	The incorporation of easements into multiple / privately owned lots is generally not supported.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	16	Excavation	The integrity of the nearby electricity infrastructure shall not be placed at risk by the carrying out of excavation work.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	17	Emergency Contact	Endeavour Energy's emergency contact number 131 003 should be included in any relevant risk and safety management plan.
<input type="checkbox"/>	<input type="checkbox"/>	18	Flooding	Electricity infrastructure should not be subject to flood inundation or stormwater runoff.

Condition	Advice	Clause No.	Issue	Detail
<input type="checkbox"/>	<input type="checkbox"/>	19	Hazardous Environment	Electricity infrastructure can be susceptible to hazard sources or in some situations be regarded as a hazardous source.
<input type="checkbox"/>	<input type="checkbox"/>	20	Modifications	Amendments can impact on electricity load and the contestable works required to facilitate the proposed development.
<input type="checkbox"/>	<input type="checkbox"/>	21	Network Access	Access to the electricity infrastructure may be required at any time particularly in the event of an emergency.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	22	Network Asset Design	Design electricity infrastructure for safety and environmental compliance consistent with safe design lifecycle principles.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	23	Network Connection	Applicants will need to submit an appropriate application based on the maximum demand for electricity for connection of load.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	24	Prudent Avoidance	Development should avert the possible risk to health from exposure to emissions from electricity infrastructure such as electric and magnetic fields (EMF) and noise.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	25	Protected Works	Electricity infrastructure without an easement is deemed to be lawful for all purposes under Section 53 'Protection of certain electricity works' of the <i>Electricity Supply Act 1995</i> (NSW).
<input type="checkbox"/>	<input checked="" type="checkbox"/>	26	Public Safety	Public safety training resources are available to help general public / workers understand the risk and how to work safely near electricity infrastructure.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	27	Removal of Electricity	Permission is required to remove service / metering and must be performed by an Accredited Service Provider.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	28	Safety Clearances	Any building or structure must comply with the minimum safe distances / clearances for the applicable voltage/s of the overhead power lines.
<input type="checkbox"/>	<input type="checkbox"/>	29	Security / Climb Points	Minimum buffers need to be provided to avoid the creation of climb point appropriate to the electricity infrastructure being protected.
<input type="checkbox"/>	<input type="checkbox"/>	30	Service Conductors	Low voltage service conductors and customer connection points must comply with the 'Service and Installation Rules of NSW'
<input type="checkbox"/>	<input type="checkbox"/>	31	Solar / Generation	Need to assess the performance of the generation system and its effects on the network and other connected customers.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	32	Streetlighting	Streetlighting should be reviewed and if necessary upgraded to suit any increase in both vehicular and pedestrian traffic.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	33	Sustainability	Reducing greenhouse gas emissions and helping customers save on their energy consumption and costs through new initiatives and projects to adopt sustainable energy technologies.
<input type="checkbox"/>	<input type="checkbox"/>	34	Swimming Pools	Whenever water and electricity are in close proximity, extra care and awareness is required.
<input type="checkbox"/>	<input type="checkbox"/>	35	Telecommunications	Address the risks associated with poor communications services to support the vital electricity supply network Infrastructure.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	36	Vegetation Management	Landscaping that interferes with electricity infrastructure is a potential safety risk and result in the interruption of supply.

PPSSTH-125 DA0616/2021  
Lot 2 & 3 DP 238804, Lot B DP 162686  
Lots 9, 10, 11, 12, 13, 14 & 15 DP 238804  
31-35 Addison Street, Shellharbour  
Attachment 1: Draft Conditions of Consent

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Endeavour Energy		
Completed by:	Easement Management Region:	Decision
Cornelis Duba	South	Approve (with conditions)
Reason(s) for Conditions / Objection (If applicable)		
<ul style="list-style-type: none"><li>• An extension or augmentation of the existing local electricity network likely to be required to facilitate the proposed development.</li><li>• Provision made for indoor substation.</li><li>• 11,000 volt / 11 kilovolt (kV) high voltage feeder will need to be extended to the site to supply the substation. A</li><li>• Appropriate easements will need to be created.</li></ul>		

Yours faithfully

Cornelis Duba

Development Application Specialist

Sustainability & Environment

M: 0455 250 981

E: [cornelis.duba@endeavourenergy.com.au](mailto:cornelis.duba@endeavourenergy.com.au)

51 Huntingwood Drive, Huntingwood NSW 2148

[www.endeavourenergy.com.au](http://www.endeavourenergy.com.au)



## 101. Sydney Water



15 November 2021

**Nicole Doughty**  
Council Assessing Officer  
Shellharbour City Council  
[Nicole.doughty@shellharbour.nsw.gov.au](mailto:Nicole.doughty@shellharbour.nsw.gov.au)

**RE: Development Application DA0616/2021 at 31-35 Addison Street, Shellharbour**

Thank you for notifying Sydney Water of DA0616/2021 at 31-35 Addison Street, Shellharbour which proposes demolition of structures, preservation and restoration of a heritage building and construction of a shop top housing development over basement car parking. The development proposes 17 apartments and 5 retail tenancies with 2 inside the heritage buildings with a total GFA of 2,318m<sup>2</sup>, excluding the existing heritage building. Sydney Water has reviewed the application based on the information supplied and provides the following comments to assist in planning the servicing needs of the proposed development.

### Water Servicing

- Potable water servicing should be available via a 100mm CICL watermain (laid in 1954) on Addison Street.
- Amplifications, adjustments, and/or minor extensions may be required.

### Wastewater Servicing

- Wastewater servicing should be available via a 225mm VC wastewater main (laid in 1975) within the property boundary.
- Amplifications, adjustments, and/or minor extensions may be required.

This advice is not formal approval of our servicing requirements. Detailed requirements, including any potential extensions or amplifications, will be provided once the development is referred to Sydney Water for a Section 73 application. More information about the Section 73 application process is available on our web page in the [Land Development Manual](#).

Further advice and requirements for this proposal are in Attachments 1 & 2. If you require any further information, please contact the Growth Planning Team at [urbangrowth@sydneywater.com.au](mailto:urbangrowth@sydneywater.com.au).

Yours sincerely,

A handwritten signature in black ink, appearing to read "Kristine Leitch", with a stylized flourish at the end.

**Kristine Leitch**  
Commercial Growth Manager  
City Growth and Development, Business Development Group  
Sydney Water, 1 Smith Street, Parramatta NSW 2150

## Attachment 1

### Section 73 Compliance Certificate

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.

The proponent is advised to make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs.

Applications must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

### Building Plan Approval

The approved plans must be submitted to the Sydney Water [Tap in™](#) online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

The [Tap in™](#) service provides 24/7 access to a range of services, including:

- building plan approvals
- connection and disconnection approvals
- diagrams
- trade waste approvals
- pressure information
- water meter installations
- pressure boosting and pump approvals
- changes to an existing service or asset, e.g. relocating or moving an asset.

Sydney Water's [Tap in™](#) online service is available at:

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

Sydney Water recommends developers apply for Building Plan approval early as in some instances the initial assessment will identify that an Out of Scope Building Plan Approval will be required.



### Out of Scope Building Plan Approval

Sydney Water will need to undertake a detailed review of building plans:

1. That affect or are likely to affect any of the following:
  - Wastewater pipes larger than 300mm in size
  - Pressure wastewater pipes
  - Drinking water or recycled water pipes
  - Our property boundary
  - An easement in our favour
  - Stormwater infrastructure within 10m of the property boundary.
2. Where the building plan includes:
  - Construction of a retaining wall over, or within the zone of influence of our assets
  - Excavation of a basement or building over, or adjacent to, one of our assets
  - Dewatering – removing water from solid material or soil.

The detailed review is to ensure that:

- our assets will not be damaged during, or because of the construction of the development
- we can access our assets for operation and maintenance
- your building will be protected if we need to work on our assets in the future.

The developer will be required to pay Sydney Water for the costs associated with the detailed review.

### Tree Planting

Certain tree species placed in close proximity to Sydney Water's underground assets have the potential to inflict damage through invasive root penetration and soil destabilisation. Sydney Water requires that all proposed or removed trees and vegetation included within the proposal adhere to the specifications and requirements within Section 46 of the Sydney Water Act (1994) and *Diagram 5 – Planting Trees* within our [Technical guidelines – Building over and adjacent to pipe assets](#). Please note these guidelines include more examples of potential activities impacting our assets which may also apply to your development.

If any tree planting proposed breaches our policy, Sydney Water may need to issue an order to remove every tree breaching the act, or directly remove every tree breaching the Act and bill the developer or Council for their removal.

## Attachment 2

### Requirements for Business Customers for Commercial and Industrial Property Developments.

#### Trade Wastewater Requirements

If this development is going to generate trade wastewater, the property owner must submit an application requesting permission to discharge trade wastewater to Sydney Water's sewerage system. You must obtain Sydney Water approval for this permit before any business activities can commence. It is illegal to discharge Trade Wastewater into the Sydney Water sewerage system without permission.

The permit application should be emailed to Sydney Water's Business Customer Services at [businesscustomers@sydneywater.com.au](mailto:businesscustomers@sydneywater.com.au)

A Boundary Trap is required for all developments that discharge trade wastewater where arrestors and special units are installed for trade wastewater pre-treatment.

If the property development is for Industrial operations, the wastewater may discharge into a sewerage area that is subject to wastewater reuse. Find out from Business Customer Services if this is applicable to your development.

#### Backflow Prevention Requirements

Backflow is when there is unintentional flow of water in the wrong direction from a potentially polluted source into the drinking water supply.

All properties connected to Sydney Water's supply must install a testable Backflow Prevention Containment Device appropriate to the property's hazard rating. Property with a high or medium hazard rating must have the backflow prevention containment device tested annually. Properties identified as having a low hazard rating must install a non-testable device, as a minimum.

Separate hydrant and sprinkler fire services on non-residential properties, require the installation of a testable double check detector assembly. The device is to be located at the boundary of the property.

Before you install a backflow prevention device:

1. Get your hydraulic consultant or plumber to check the available water pressure versus the property's required pressure and flow requirements.
2. Conduct a site assessment to confirm the hazard rating of the property and its services. Contact PIAS at NSW Fair Trading on 1300 889 099.

For installation you will need to engage a licensed plumber with backflow accreditation who can be found on the Sydney Water website:

<https://www.sydneywater.com.au/plumbing-building-developing/plumbing/backflow-prevention.html>

### **Water Efficiency Recommendations**

Water is our most precious resource and every customer can play a role in its conservation. By working together with Sydney Water, business customers are able to reduce their water consumption. This will help your business save money, improve productivity and protect the environment.

Some water efficiency measures that can be easily implemented in your business are:

- Install water efficiency fixtures to help increase your water efficiency, refer to WELS (Water Efficiency Labelling and Standards (WELS) Scheme, <http://www.waterrating.gov.au/>
- Consider installing rainwater tanks to capture rainwater runoff, and reusing it, where cost effective. Refer to <https://www.sydneywater.com.au/your-business/managing-your-water-use/water-efficiency-tips.html>
- Install water-monitoring devices on your meter to identify water usage patterns and leaks.
- Develop a water efficiency plan for your business.

It is cheaper to install water efficiency appliances while you are developing than retrofitting them later.

### **Contingency Plan Recommendations**

Under Sydney Water's [customer contract](#) Sydney Water aims to provide Business Customers with a continuous supply of clean water at a minimum pressure of 15meters head at the main tap. This is equivalent to 146.8kpa or 21.29psi to meet reasonable business usage needs.

Sometimes Sydney Water may need to interrupt, postpone or limit the supply of water services to your property for maintenance or other reasons. These interruptions can be planned or unplanned.

Water supply is critical to some businesses and Sydney Water will treat vulnerable customers, such as hospitals, as a high priority.

Have you thought about a contingency plan for your business? Your Business Customer Representative will help you to develop a plan that is tailored to your business and minimises productivity losses in the event of a water service disruption.

For further information please visit the Sydney Water website at: <https://www.sydneywater.com.au/your-business/managing-trade-wastewater/commercial-trade-wastewater.html> or contact Business Customer Services on 1300 985 227 or [businesscustomers@sydneywater.com.au](mailto:businesscustomers@sydneywater.com.au).

### **REASONS FOR THE IMPOSITION OF CONDITIONS**

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



## **Advisory Notes – Project Specific**

### **Access to Premise Standards**

Provide access for people with disabilities where required by and in accordance with the Commonwealth Disability (Access to Premises – Buildings) Standards 2010 (the Premises Standards) and AS1428.1.

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## **Advisory Notes – General**

### **Critical Stage Mandatory Inspections**

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

It is recommended that you discuss with your Principal Certifier the occasions when the building work is to be inspected prior to work commencing.

### **Construction Noise**

Protocols must be in place to minimise disturbance to nearby residents from construction noise in line with the EPA Interim Construction Noise Guidelines.

### **Demolition - Dust**

Dust must be suppressed during demolition of the existing building.

### **Compliance with *Building Code of Australia***

The development must comply with the *Building Code of Australia* and all related standards and legislation.

### **Erection of Signs**

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

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

### **SafeWork NSW**

The requirements of SafeWork NSW must be satisfied at all times.

### **Failure to Comply with Consent**

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

## **Lapsing of Development Consent**

In accordance with Part 4, Division 4.9, section 4.53 of the *Environmental Planning & Assessment Act 1979*, the development approval lapses seven years after the approval date unless building, engineering or construction work relating to the building has physically commenced.

## **Right to Appeal**

If you are dissatisfied with this decision, Part 8, Division 8.3, section 8.7 of the *Environmental Planning & Assessment Act 1979* gives you the right to appeal to the Land & Environment Court within twelve months after the date on which you receive this notice.

## **Review of Determination**

If you are dissatisfied with this decision, Part 8, Division 8.2 of the *Environmental Planning & Assessment Act 1979* provides that you may request Council to review its determination. The request cannot be made after the time limit for making of an appeal under section 97 expires.

Division 8.2 of the *Environmental Planning & Assessment Act 1979* does not apply to:

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

## **To Vary Development Consent**

The plans and/or conditions of this consent are binding and may only be varied upon application to Council under section 4.55 of the *Environmental Planning & Assessment Act 1979*. The appropriate fee shall accompany the application and no action shall be taken on the requested variation unless and until the written authorisation of Council is received by way of an amended consent.

## **BASIX**

Please note that the requirement for lodging a modification of development consent under section 4.55 of the *Environmental Planning & Assessment Act 1979* may result in the requirement for a revised BASIX certificate to be submitted for assessment.

## **Dial Before You Dig**

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

### ***Telecommunications Act 1997 (Commonwealth)***

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

### **Development within Vicinity of a High Pressure Gas Main**

Contact Dial Before You Dig on 1100 or [www.dialbeforeyoudig.com.au](http://www.dialbeforeyoudig.com.au) [<http://www.dialbeforeyoudig.com.au/>](http://www.dialbeforeyoudig.com.au) Proposed works in the vicinity of any high pressure gas main must be directed to:

Jemena Asset Management Pty Ltd  
PO Box 6507  
SILVERWATER NSW 2128

Attention: Land Services Department

### **Prescribed Payment System Tax Obligations**

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

**END OF NOTICE**