

DATE OF DETERMINATION	20 June 2023
DATE OF PANEL DECISION	20 June 2023
DATE OF PANEL MEETING	14 June 2023
PANEL MEMBERS	Chris Wilson (Chair), Juliet Grant, Grant Christmas, Graham Rollinson
APOLOGIES	None
DECLARATIONS OF INTEREST	Council interest DA

Papers circulated electronically on 31 May 2023 and 16 June 2023.

MATTER DETERMINED

PPSSTH-166 – Shellharbour – DA0350/2022 at 5 and 6 Civic Avenue and 5 Waterfront Promenade, Shell Cove - Alternative address – 9 Waterfront Parade, Shell Cove – Two residential flat buildings and one building with shop top housing comprising a total of 155 apartments and retail space (total 330sqm) (as described in Schedule 1).

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

Development application

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to approve the application for the reasons outlined in the Council's assessment and addendum reports subject to amendments to the recommended conditions as discussed below. Notably, the Panel was satisfied that:

- The prerequisites for the grant of consent had been met;
- The proposal was generally consistent with the Concept Plan applicable to the Precinct;
- The matters raised by the Panel at its meeting of 14 June 2023 had been satisfactorily addressed as discussed below;
- A thorough assessment in terms of Section 4.15 of the *Environmental Planning and Assessment Act, 1979* had been undertaken; and
- The development was deemed to be in the public interest.

The Panel initially deliberated on the matter on 14 June 2023. At that meeting the Panel sought clarification in relation to several matters as follows:

- The non-compliance with Apartment Design Guidelines (ADG) solar access requirements and direct sunlight to apartments in Building B;
- The non-compliance with ADG deep soil requirements;
- The non-compliance with ADG Communal Open Space (COS) requirements and clarification regarding arrangements for the through site link;
- Clarification as to why the proposal was referred to the Shellharbour Design Review Panel (DRP) prior to lodgement and not re-referred post lodgement;
- Confirmation of conditions referred to in Council's assessment report; and

- Required amendments to the draft recommended conditions of consent.

On 15 June 2023, Council provided an addendum report. The Panel is satisfied that the addendum report has satisfactorily addressed the Panels residual concerns by providing:

- Sound justification for the identified departures from the ADG in relation to solar access, deep soil requirements, and communal open space;
- Additional clarification and a recommended condition to ensure appropriate arrangements will be in place to manage the public through site link;
- Justification regarding Council's referral of the DA to Council's DRP which was referred consistent with Council policy;
- Additional cross referencing of conditions identified in the report with the recommended Instrument of Consent; and
- Administrative amendments to the Instrument of Consent consistent with the matters raised by the Panel.

CONDITIONS

The Development Application was approved subject to the conditions in the Council's Addendum Report which included the following inclusions and amendments:

- Condition 82 was amended to include an additional requirement as follows:
 - x *Public right of access must be maintained from Waterfront Promenade to Civic Avenue via the through site link in Building B in Lot 4204 DP1219051 in perpetuity.*
- A range of administrative amendments to ensure clarity and certainty in the implementation of the conditions. None of these administrative amendments altered the intent of the applicable conditions.

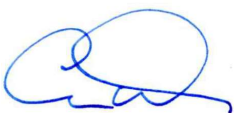



An updated copy of the instrument of consent is attached as Schedule 2.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition. The Panel notes that issues of concern included:

- Lack of public car parking spaces within the Shell Cove Waterfront Area;
- Lack of dedicated parking for building C;
- Car parking allocation for proposed café;
- Delineation of retail parking in building A;
- Insufficient communal open space; and
- Solar access.

The Panel considered that concerns raised by the community have been adequately addressed in the Assessment and Addendum Reports and no further consideration is required.

PANEL MEMBERS	
 Chris Wilson (Chair)	 Juliet Grant
 Grant Christmas	 Graham Rollinson

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSTH-166 – Shellharbour – DA0350/2022
2	PROPOSED DEVELOPMENT	Two residential flat buildings and one building with shop top housing comprising a total of 155 apartments and retail space (total 330sqm)
3	STREET ADDRESS	Lots 4204 and 4205 DP 1254978 and lot 4006 DP1219051 5 and 6 Civic Avenue and 5 Waterfront Promenade, Shell Cove Alternative address – 9 Waterfront Parade, Shell Cove
4	APPLICANT/OWNER	Applicant: Australand Corp. (Fraser's Australia) Owner: Shellharbour City Council
5	TYPE OF REGIONAL DEVELOPMENT	Council related development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development State Environmental Planning Policy (Building Sustainability Index – BASIX) 2004 SEPP (Transport and Infrastructure) 2021 Shell Cove Boat Harbour Concept Plan 07_0027 MOD 1 Shellharbour Local Environmental Plan 2013 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Shellharbour Development Control Plan 2013 Planning agreements: Nil Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council Assessment Report: 30 May 2023 Supplementary Council Report: 15 June 2023 Written submissions during public exhibition: 2 Total number of unique submissions received by way of objection: 2
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 28 September 2022 <ul style="list-style-type: none"> <u>Panel members</u>: Chris Wilson (Acting Chair), Tim Fletcher, Renata Brooks, Graham Rollinson <u>Council assessment staff</u>: Madeline Cartwright, Nicole Doughty, Jasmina Micevski <u>Other</u>: Amanda Moylan (DPE) Site inspection: 28 September 2022 <ul style="list-style-type: none"> <u>Panel members</u>: Chris Wilson (Acting Chair), Tim Fletcher, Graham Rollinson <u>Council assessment staff</u>: Madeline Cartwright, Nicole Doughty, Jasmina Micevski <u>Other</u>: Amanda Moylan (DPE)

		<ul style="list-style-type: none"> • Site inspection: 8 March 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Juliet Grant ○ <u>Council assessment staff</u>: Madeline Cartwright • Final briefing to discuss council's recommendation: 14 June 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Chair), Juliet Grant, Grant Christmas, Graham Rollinson ○ <u>Council assessment staff</u>: Madeline Cartwright, Jasmina Micevski, Mathew Rawson ○ <u>Applicant representatives</u>: Ben Sutton (Fraser's), Alby Peros (Fraser's), Jim Murray (Ethos Urban), Juliet Wittenoom Louw (Ethos Urban) ○ <u>Other</u>: Tracey Gillette (DPE)
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report

SCHEDULE 2

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 2021*.

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.

Name of Plan/Document	Prepared By	Drawing/Document No./Revision	Drawing/Document Date
Site Plan	Plus Architecture	DA-0010 rev. 03	23.05.2022
Floor Plans	Plus Architecture	DA-0098 rev. 13	23.05.2022
		DA-0099 rev. 13	23.05.2022
		DA-0100 rev. 13	23.05.2022
		DA-0101 rev. 13	23.05.2022
		DA-0102 rev. 13	23.05.2022
		DA-0103 rev. 13	23.05.2022
		DA-0104 rev. 13	23.05.2022
		DA-0105 rev. 13	23.05.2022
		DA-0106 rev. 13	23.05.2022
		DA-0107 rev. 13	23.05.2022
		DA-A-0099 rev. 12	23.05.2022
		DA-A-0100 rev. 12	23.05.2022
		DA-A-0101 rev. 12	23.05.2022
		DA-A-0102 rev. 12	23.05.2022
		DA-A-0103 rev. 12	23.05.2022
		DA-A-0104 rev. 12	23.05.2022
		DA-A-0105 rev. 12	23.05.2022
		DA-A-0106 rev. 12	23.05.2022
		DA-A-0107 rev. 01	23.05.2022
		DA-B-0098 rev. 12	23.05.2022
		DA-B-0099 rev. 12	23.05.2022
		DA-B-0100 rev. 12	23.05.2022
		DA-B-0101 rev. 12	23.05.2022
		DA-B-0102 rev. 12	23.05.2022
		DA-B-0103 rev. 12	23.05.2022
		DA-B-0104 rev. 12	23.05.2022
		DA-B-0105 rev. 12	23.05.2022
		DA-B-0106 rev. 12	23.05.2022

Section Plans	Plus Architecture	DA-0200 rev. 06	23.05.2022
		DA-0201 rev. 06	23.05.2022
		DA-0202 rev. 04	23.05.2022
Elevations Plan	Plus Architecture	DA-0210 rev. 05 DA-	23.05.2022 23.05.2022

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Acid Sulphate	SMEC	3001886 rev. 1	12.12.2021
Access Review	Morris Goding Access Consulting	DA Final	27.05.2022
Statement of Environmental Effects	Ethos Urban	2210151	06.07.2022
Traffic Assessment	Ason Group	1684r01v6 TA Precinct D, Shell Cove Issue VI	29.06.2022
Acoustic Assessment	Acoustic Logic	20211024.1 revision 3	16.12.2022
CPTED Report	Ethos Urban	2210151	06.07.2022
Preliminary Geotechnical Investigation Report	SMEC	3001886-R06 revision 2	10.05.2022

* The approved BASIX 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. Easements

Structures must not encroach onto any easement.

5. Endeavour Energy

Correspondence has been received from Endeavour Energy dated 22.08.2022 and **is** 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 Version 7 dated December 2022'. This document can be found on the Planning Portal under 'Agency Advice'.

6. Compliance with Notations on Drawings

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

7. Staged Consent

The development shall be staged as detailed within the Statement of Environmental Effects reference 2210151 version A dated 06.07.2022 as follows:

Stage 1: Construction of Building A and Building C and car park.

Stage 2: Construction **of** Building B and upgrades to car park

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

8. House Numbering

House numbering will be as follows,

Building A Primary Address - 5 Civic Avenue Building

B Primary Address - 6 Civic Avenue Building C

Primary Address - 95 Cove Boulevard

Building A

Ground Floor	Street Number	Street Name	Street Type	Locality
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A001	G01/5	Civic	Avenue	Shell Cove
A002	G02/5	Civic	Avenue	Shell Cove
A003	G03/5	Civic	Avenue	Shell Cove
A004	G04/5	Civic	Avenue	Shell Cove
A005	G05/5	Civic	Avenue	Shell Cove
A006	G06/5	Civic	Avenue	Shell Cove
A007	G07/5	Civic	Avenue	Shell Cove
A008	G08/5	Civic	Avenue	Shell Cove
A009	G09/5	Civic	Avenue	Shell Cove
A010	G10/5	Civic	Avenue	Shell Cove
Level 1	Street Number	Street Name	Street Type	Locality
A101	101/5	Civic	Avenue	Shell Cove
A102	102/5	Civic	Avenue	Shell Cove
A103	103/5	Civic	Avenue	Shell Cove
A104	104/5	Civic	Avenue	Shell Cove
A105	105/5	Civic	Avenue	Shell Cove
A106	106/5	Civic	Avenue	Shell Cove
A107	107/5	Civic	Avenue	Shell Cove
A108	108/5	Civic	Avenue	Shell Cove
A109	109/5	Civic	Avenue	Shell Cove
A110	110/5	Civic	Avenue	Shell Cove
A111	111/5	Civic	Avenue	Shell Cove
Level 2	Street Number	Street Name	Street Type	Locality
A201	201/5	Civic	Avenue	Shell Cove
A202	202/5	Civic	Avenue	Shell Cove
A203	203/5	Civic	Avenue	Shell Cove
A204	204/5	Civic	Avenue	Shell Cove
A205	205/5	Civic	Avenue	Shell Cove
A206	206/5	Civic	Avenue	Shell Cove

A207	207/5	Civic	Avenue	Shell Cove
A208	208/5	Civic	Avenue	Shell Cove
A209	209/5	Civic	Avenue	Shell Cove
A210	210/5	Civic	Avenue	Shell Cove
A211	211/5	Civic	Avenue	Shell Cove
A212	212/5	Civic	Avenue	Shell Cove
A213	213/5	Civic	Avenue	Shell Cove
A214	214/5	Civic	Avenue	Shell Cove
Level 3	Street Number	Street Name	Street Type	Locality
A301	301/5	Civic	Avenue	Shell Cove
A302	302/5	Civic	Avenue	Shell Cove
A303	303/5	Civic	Avenue	Shell Cove
A304	304/5	Civic	Avenue	Shell Cove
A305	305/5	Civic	Avenue	Shell Cove
A306	306/5	Civic	Avenue	Shell Cove
A307	307/5	Civic	Avenue	Shell Cove
A308	308/5	Civic	Avenue	Shell Cove
A309	309/5	Civic	Avenue	Shell Cove
A310	310/5	Civic	Avenue	Shell Cove
A311	311/5	Civic	Avenue	Shell Cove
A312	312/5	Civic	Avenue	Shell Cove
A313	313/5	Civic	Avenue	Shell Cove
A314	314/5	Civic	Avenue	Shell Cove
Level 4	Street Number	Street Name	Street Type	Locality
A401	401/5	Civic	Avenue	Shell Cove
A402	402/5	Civic	Avenue	Shell Cove
A403	403/5	Civic	Avenue	Shell Cove
A404	404/5	Civic	Avenue	Shell Cove
A405	405/5	Civic	Avenue	Shell Cove

A406	406/5	Civic	Avenue	Shell Cove
A407	407/5	Civic	Avenue	Shell Cove
A408	408/5	Civic	Avenue	Shell Cove
A409	409/5	Civic	Avenue	Shell Cove
A410	410/5	Civic	Avenue	Shell Cove
A411	411/5	Civic	Avenue	Shell Cove
A412	412/5	Civic	Avenue	Shell Cove
A413	413/5	Civic	Avenue	Shell Cove
A414	414/5	Civic	Avenue	Shell Cove
Level 5	Street Number	Street Name	Street Type	Locality
A501	501/5	Civic	Avenue	Shell Cove
A502	502/5	Civic	Avenue	Shell Cove
A503	503/5	Civic	Avenue	Shell Cove
A504	504/5	Civic	Avenue	Shell Cove
A505	505/5	Civic	Avenue	Shell Cove
A506	506/5	Civic	Avenue	Shell Cove
A507	507/5	Civic	Avenue	Shell Cove
A508	508/5	Civic	Avenue	Shell Cove
A509	509/5	Civic	Avenue	Shell Cove
A510	510/5	Civic	Avenue	Shell Cove
A511	511/5	Civic	Avenue	Shell Cove
A512	512/5	Civic	Avenue	Shell Cove
A513	513/5	Civic	Avenue	Shell Cove
A514	514/5	Civic	Avenue	Shell Cove

Building B				
Ground Floor	Street Number	Street Name	Street Type	Locality
B001	G01/6	Civic	Avenue	Shell Cove
B002	G02/6	Civic	Avenue	Shell Cove

B003	G03/6	Civic	Avenue	Shell Cove
B004	G04/6	Civic	Avenue	Shell Cove
B005	G05/6	Civic	Avenue	Shell Cove
B006	G06/6	Civic	Avenue	Shell Cove
B007	G07/6	Civic	Avenue	Shell Cove
Level 1	Street Number	Street Name	Street Type	Locality
B101	101/6	Civic	Avenue	Shell Cove
B102	102/6	Civic	Avenue	Shell Cove
B103	103/6	Civic	Avenue	Shell Cove
B104	104/6	Civic	Avenue	Shell Cove
B105	105/6	Civic	Avenue	Shell Cove
B106	106/6	Civic	Avenue	Shell Cove
B107	107/6	Civic	Avenue	Shell Cove
B108	108/6	Civic	Avenue	Shell Cove
B109	109/6	Civic	Avenue	Shell Cove
B110	110/6	Civic	Avenue	Shell Cove
B111	111/6	Civic	Avenue	Shell Cove
B112	112/6	Civic	Avenue	Shell Cove
Level 2	Street Number	Street Name	Street Type	Locality
B201	201/6	Civic	Avenue	Shell Cove
B202	202/6	Civic	Avenue	Shell Cove
B203	203/6	Civic	Avenue	Shell Cove
B204	204/6	Civic	Avenue	Shell Cove
B205	205/6	Civic	Avenue	Shell Cove
B206	206/6	Civic	Avenue	Shell Cove
B207	207/6	Civic	Avenue	Shell Cove
B208	208/6	Civic	Avenue	Shell Cove
B209	209/6	Civic	Avenue	Shell Cove
B210	210/6	Civic	Avenue	Shell Cove

B211	211/6	Civic	Avenue	Shell Cove
B212	212/6	Civic	Avenue	Shell Cove
Level 3	Street Number	Street Name	Street Type	Locality
B301	301/6	Civic	Avenue	Shell Cove
B302	302/6	Civic	Avenue	Shell Cove
B303	303/6	Civic	Avenue	Shell Cove
B304	304/6	Civic	Avenue	Shell Cove
B305	305/6	Civic	Avenue	Shell Cove
B306	306/6	Civic	Avenue	Shell Cove
B307	307/6	Civic	Avenue	Shell Cove
B308	308/6	Civic	Avenue	Shell Cove
B309	309/6	Civic	Avenue	Shell Cove
B310	310/6	Civic	Avenue	Shell Cove
B311	311/6	Civic	Avenue	Shell Cove
B312	312/6	Civic	Avenue	Shell Cove
Level 4	Street Number	Street Name	Street Type	Locality
B401	401/6	Civic	Avenue	Shell Cove
B402	402/6	Civic	Avenue	Shell Cove
B403	403/6	Civic	Avenue	Shell Cove
B404	404/6	Civic	Avenue	Shell Cove
B405	405/6	Civic	Avenue	Shell Cove
B406	406/6	Civic	Avenue	Shell Cove
B407	407/6	Civic	Avenue	Shell Cove
B408	408/6	Civic	Avenue	Shell Cove
B409	409/6	Civic	Avenue	Shell Cove
B410	410/6	Civic	Avenue	Shell Cove
B411	411/6	Civic	Avenue	Shell Cove
B412	412/6	Civic	Avenue	Shell Cove
Level 5	Street Number	Street Name	Street Type	Locality

B501	501/6	Civic	Avenue	Shell Cove
B502	502/6	Civic	Avenue	Shell Cove
B503	503/6	Civic	Avenue	Shell Cove
B504	504/6	Civic	Avenue	Shell Cove
B505	505/6	Civic	Avenue	Shell Cove
B506	506/6	Civic	Avenue	Shell Cove
B507	507/6	Civic	Avenue	Shell Cove
B508	508/6	Civic	Avenue	Shell Cove
B509	509/6	Civic	Avenue	Shell Cove
B510	510/6	Civic	Avenue	Shell Cove

Building C				
Ground Floor	Street Number	Street Name	Street Type	Locality
59m Retail	89	Cove	Boulevard	Shell Cove
90m Retail	91	Cove	Boulevard	Shell Cove
44m Retail	93	Cove	Boulevard	Shell Cove
52m Retail	97	Cove	Boulevard	Shell Cove
85m Retail	99	Cove	Boulevard	Shell Cove
First Floor	Street Number	Street Name	Street Type	Locality
C100	G01/95	Cove	Boulevard	Shell Cove
C101	101/95	Cove	Boulevard	Shell Cove
C102	102/95	Cove	Boulevard	Shell Cove
C103	103/95	Cove	Boulevard	Shell Cove
C104	104/95	Cove	Boulevard	Shell Cove
C105	105/95	Cove	Boulevard	Shell Cove
C106	106/95	Cove	Boulevard	Shell Cove
Level 2	Street Number	Street Name	Street Type	Locality
C201	201/95	Cove	Boulevard	Shell Cove
C202	202/95	Cove	Boulevard	Shell Cove

C203	203/95	Cove	Boulevard	Shell Cove
C204	204/95	Cove	Boulevard	Shell Cove
C205	205/95	Cove	Boulevard	Shell Cove
C206	206/95	Cove	Boulevard	Shell Cove

- a. The allocated house numbers must be shown on the Construction Certificate plans.
- b. Where plans and details are provided to service suppliers, numbers must be in accordance with the above.

PART B - PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

9. Section 7.11 Development Contributions

A contribution of \$1,780,272.15, 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 9th Review (Amendment 1) 6 June 2022 in the following manner:

- Residential contribution - Precinct 2, Shellharbour - \$ 1,913,905.40
- Less credit for C1.26 Passive Open Space Embellishment - (\$ 133,633.25)
- Non-residential contribution - \$ 690.80

Open Space contribution	\$312,382.35
Community Infrastructure contribution	\$1,284,887.79
Roads & Traffic Infrastructure contribution	\$32,895.65
Drainage contribution	\$-
Administration contribution	\$150,106.36
Total contribution payable	\$1,780,272.15

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. Bond - Existing Street Trees

A Street Tree Bond deposit in accordance with Council's Fees and Charges (total 57 trees) must be lodged with Council prior to the issue of the Construction Certificate to ensure that in accordance with the Approved Landscape Plan, the eight (8) existing street trees that conflict with tram ramp locations are transplanted and/or replaced, and the forty nine (49) existing trees (with no conflict) are maintained in the same condition **or better** as found before the start of any building work on the site.

11. Street Tree Inspection Fee

The developer must lodge with Council an inspection fee in accordance with Council's Fees and Charges for:

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

prior to the issue of the Construction Certificate.

12. Protection of Street Trees

Any existing street trees must be enclosed with temporary protective fencing to prevent any activities, storage or the disposal of materials within the fenced area. Details of the design and location of the vegetation protective fencing must be shown on the building plans and must be approved by the accredited certifier prior to the issue of the Construction Certificate. The protective fence must:

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

Any street tree that is damaged or removed during works must be replaced **prior to return of the street tree bond**.

13. Amended Plans

Prior to the issue of a Construction Certificate for Stage 2 plans are to be submitted to, and approved by, Council which show the following:

- a. Deletion to references to a café on plan reference DA-0100 Rev13 dated 23.5.2022. This space must instead be revised to serve as an additional internal and external communal space areas for residents.
- b. Details of the raised pedestrian crossing across Waterfront Parade (in particular height and gradient of height change) to ensure the raised aspect of the crossing will not conflict with vehicles exiting the approved hotel development's porte cochere.

14. Detailed Drainage Design

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

- a. be generally in accordance with Siteworks and Stormwater Management Plan Ref. No. 211046 Rev. 1 prepared by Northrop on 22.12.2022,
- b. Drain to Council pit,
- c. indicate the method of disposal of all stormwater and must include existing ground levels, finished surface levels on all paved areas, estimated flow rates, invert levels and 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,
- h. include the rainwater tank, dimensions and point of discharge of overflow from the

rainwater tank and details of any pump required to provide water to the toilets, clothes washer and/or any other fixture identified in the BASIX certificate.

15. Amended Geotechnical Report

An amended geotechnical report, prepared by a suitably qualified and experienced geotechnical engineer must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The report must cover, but not be limited to the following:

- a. extent and stability of proposed embankments including those acting as retarding basins,
- b. recommended Geotechnical testing requirements,
- c. level of geotechnical supervision for each part of the works as defined under AS 3798 - 2007 Guidelines on Earthworks for Commercial and Residential Developments or subsequent amendments,
- d. an analysis of the level of risk to existing adjacent structures/buildings including the scenario of a construction contractor using vibratory rollers anywhere within the site the subject of these works. In the event that vibratory rollers could affect adjacent structures/buildings, high risk areas must be identified on a plan and indicate that no vibratory rollers shall be used within that zone,
- e. the impact of the installation of services on overall site stability and recommendations on short term drainage methods, shoring requirements and other remedial measures that may be appropriate during installation,
- f. the recommended treatment of any unstable areas within privately owned allotments;
- g. requirement for subsurface drainage lines,
- h. overall assessment of the engineering plans for the proposed development and their suitability in relation to the site's geotechnical characteristics.

16. Retaining Wall

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. Plans demonstrating compliance with this and the following matters must be submitted to and approved by the certifier prior to the issue of a Construction Certificate:

All retaining walls must be located wholly within the subject property, including footings and aggregate drainage lines.

The construction of retaining walls or associated drainage work must not compromise the structural integrity of any existing structures on the subject site or neighbouring sites.

Aggregate drain pipes must be connected to a legal point of discharge.

Construction of the retaining wall must not compromise the integrity of any existing sewer line, inter-allotment drainage line or other infrastructure. Footings must not be located within a drainage easement. Revised footing locations or deeper footings may be required to prevent impacting on this existing infrastructure. Any damage to this infrastructure arising from the construction or presence of a retaining wall must be rectified by the owner of the land and at their full cost.

17. Verification of Driveway Grades with Council Standards

To verify that vehicular access will comply with Council's requirements, a scaled long section of the proposed driveway, from kerb and gutter at the point of access to the proposed garage floor level must be submitted with the Construction Certificate and must include:

- a. existing natural surface levels,

- b. proposed grades and finished surface levels of the driveways,
- c. preliminary details of the method of treatment of any fill/retaining wall which may be required in conjunction with the proposed driveway.

No part of the driveway must have grades exceeding Council's standards. As such, the long section shall be taken along the critical path, i.e. the side of the driveway that will have the steepest grades.

18. Engineer Designed Pavement

The vehicle 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. The pavement is to comply with Australian Standard 'Guide to Residential Pavements' (AS 3727-1993 or subsequent amendments). These details must be submitted with application for a Construction Certificate.

19. 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.

20. Pedestrian Wind Environment

Prior to issue of a Construction Certificate detailed plans consistent with the treatments recommended in the approved Pedestrian Wind Environment Statement reference WG154-01DF02(REV4)- WS REPORT dated 18.03.2022 and subsequent Wind Tunnelling Testing, must be submitted to the Principal Certifier for approval.

21. SEPP 65 Design Verification Statement

Prior to the issue of a Construction Certificate, 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 must be submitted to the certifier.

22. Car Washing Facility

Prior to the issue of a Construction Certificate, detailed plans are to be submitted to the Principal Certifier for approval showing that the car washing facility within the ground floor car park of Building A includes signage, a water tap and wastewater drainage.

23. Flood Wall Design

Prior to the issue of a Construction Certificate, a detailed structural design of the proposed retaining wall (flood wall between Buildings D1 and D3) is to be provided to the satisfaction of the Principal Certifier. The flood wall must also be certified by the hydraulic engineer of Advisian Pty Ltd for its suitability in deflecting flood water as intended in the document titled

“Shell Cove Boat Harbour Precinct - Precinct D Apartments Flood Assessment” prepared by Advisan Pty Ltd dated 03 December 2021. The retaining wall is to be generally designed in accordance with the concept design approved on plan No. L1SK01, Revision A dated 08 September 2022.

24. Groundwater Impacts

Prior to the issue of a Construction Certificate plans must be submitted to the Principal Certifier for approval that include details of the recommendations made in Section 4.6 of the Geotechnical Investigation Report reference 3001886-R06 revision 2 dated 10.05.2022.

These recommendations must be implemented during construction works.

25. Acoustic Impacts

Prior to the issue of a Construction Certificate plans must be submitted to the Principal Certifier for approval that include details of the recommendations made in the Acoustic Assessment Report reference 20211024.1 revision 3 dated 16.12.2022.

26. Access to Power in Carparks

Prior to the issue of a Construction Certificate plans must be submitted to the Principal Certifier for approval that include details of the installation of appropriate electrical infrastructure and capacity to allow at least 20% of residential parking spaces to charge an electric vehicle at any one time in their own car space.

These details are to be implemented in the construction of the development.

27. Crime Prevention Through Environmental Design

Prior to the issue of a Construction Certificate plans must be submitted to the Principal Certifier for approval detailing how the development **will** achieve the recommendations in the approved Crime Prevention Through Environmental Design report reference 2210151, dated 06.07.2022.

28. External Lighting Of Building

Documentary evidence must be provided to the Principal Certifier demonstrating that the external lighting strategy of the building does not exceed the limits of the Australian Standard 4282-1997 Control of the Obtrusive effects of outdoor lighting. The lighting strategy must be prepared by a suitably qualified, practicing lighting engineer or lighting designer.

29. Parking Allocation Plan

Prior to the issue of a Construction Certificate a parking allocation plan is to be submitted to Council for approval. The plan is to detail how each parking space is to be allocated and provide details of appropriate signage. **Parking allocation is to be consistent with the approved plans and as follows:**

- a. At all times the number of private parking spaces for the residential apartments must be at least 219 spaces.
- b. Each unit must be allocated a minimum of 1 parking space.
- c. More than 1 car parking space (maximum of 2 per unit) may be allocated to 2, 3 or 4 bedroom units.
- d. Pairs of stacked parking spaces must be allocated to the same apartment.

- e. The number of visitor car parking spaces must be 71 vehicle spaces.
- f. 10 spaces in Building A must be allocated to the retail units within Building C.
- g. The number of spaces available for public parking within the open air car park located on lot 4006 DP1219051 must be 29 vehicle spaces.

30. Traffic Committee – Signposting and Line Marking Plan

Prior to issue of a Construction Certificate a Signposting and Line Marking Plan must be submitted to Council for approval by the Local Traffic Committee. This plan must detail all facilities, signage and line-marking required within and surrounding the development.

31. Soil and Water Management Plan (SWMP)

Prior to the issue of the Construction Certificate, a Soil and Water Management Plan (SWMP) must be submitted to the Principal Certifier. The SWMP must clearly identify site features, constraints and soil types together with the nature of the proposed land disturbing activities and also specify the type and location of erosion and sediment control measures. In addition, rehabilitation techniques that are necessary to deal with such activities should be referred to.

The SWMP must take into account the requirements of Landcom's publication Managing Urban Stormwater - Soils and Construction (2004) thus ensuring the following objectives are achieved, namely:

- a. minimise the area of soils exposed at any one time.
- b. conserve topsoil for reuse on site.
- c. identify and protect proposed stockpile locations.
- d. preserve existing vegetation and identify revegetation techniques and materials.
- e. control surface water flows through the development construction site on a manner that:
 - i. diverts clean run-off around disturbed areas.
 - ii. minimises slope gradient and flow distance within disturbed areas.
 - iii. ensures surface run-off occurs at non-erodible velocities.
 - iv. ensures disturbed areas are promptly rehabilitated.
- f. trap sediment on the site to prevent off site damage. Hay bales are not to be used as sediment control devices. To ensure regular monitoring and maintenance of erosion and sediment control measures and rehabilitation works until the site is stabilised (including landscaping).
- g. specifies measure to control dust generated as a result of construction activities on site.
- h. temporary sediment ponds must be fenced where the batter slope exceeds 1 vertical to 5 horizontal.
- i. design scour protection for the 10 year ARI event at all inlet and outlet structures.
- j. including measures to prevent the tracking of sediment off the site.

32. Grated Drain

Prior to the issue of a Construction Certificate, plans must be updated to show a grated stormwater drain constructed across the driveway adjacent to the vehicle access for both Buildings A and B.

33. Flooding Planning Level

The Flood Planning Level (FPL) (1% AEP + 500mm Freeboard) for this site is shown in Figure 5.1 of Shell Cove Boat Harbour Precinct - Precinct D Apartments Flood Assessment.

The Probable Maximum Flood (PMF) Level for the proposed development is as follows:

Proposed development	Probable Maximum Flood (PMF) Level
Building A	8.1 m AHD
Building B	6.1 m AHD
Building C	8.8 m AHD
Open car park between Building A and C	6.5 m AHD
Open car park in the southern side of Building B	6.2 m AHD

Prior to the issue of a Construction Certificate, details demonstrating that the development complies with the following restrictions must be submitted to the Principal Certifier:

- a. All structures to have flood compatible components up to and including the PMF Level in accordance with Appendix 9 of Shellharbour City Councils Development Control Plan,
- b. An IEAust NER Structural Engineer's certificate certifying that structures are designed to withstand forces of floodwaters, debris and buoyancy up to and including the PMF Level is to be submitted with the Construction Certificate Application.

34. 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. AUSTRROADS 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.

This information must be provided to the Principal Certifier prior to the issue of the Construction Certificate.

35. Commercial Kitchen Exhaust Design

Any non residential (commercial) kitchen exhaust and any mechanical ventilation must discharge through the roof of the building and must comply with AS 1668.2 - Part 2 (Ventilation Design for Indoor Air Contaminant Control). The kitchen exhaust and any mechanical ventilation and associated ductwork must not discharge through, or be attached to, the outside wall or outside face of the building. This information must be provided to the Principal Certifier prior to the issue of the Construction Certificate.

PART C - PRIOR TO COMMENCEMENT OF WORKS

36. 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.

37. 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.

38. Structural Details

The following structural details must be provided to the Principal Certifier 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.

39. Protection Fencing

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

40. Site Management Plan

Prior to the commencement of works, the applicant must submit to and obtain approval for a construction and site management plan from the Principal Certifier that clearly sets out the following:

- a. what actions are proposed to ensure safe access to and from the site and what protection will be provided to the road and footpath area from building activities, crossings by heavy equipment, plant and materials delivery and static load from cranes, concrete pumps and the like,
- b. the proposed method of loading and unloading excavation machines, building materials and formwork within the site,
- c. the proposed areas within the site to be used for the storage of excavated material, construction materials and waste containers during the construction period,
- d. sediment and erosion control measures as per Landcom's publication 'Managing Urban Stormwater - Soils and Construction (2004)' also known as the 'Blue Book' or subsequent revisions,

- e. how it is proposed to ensure that soil/excavated materials are not transported on wheels or tracks of vehicles or plant and deposited on the roadway, and
- f. the proposed method of support to any excavation adjacent to adjoining buildings or the road reserve. The proposed method of support is to be certified by an appropriately qualified and experienced engineer.

41. Construction Traffic Management Plan (CTMP)

Prior to the commencement of works, a CTMP detailing vehicle routes, number of trucks, hours of operation, access arrangements, impact on pedestrians and traffic control must be submitted to and approved by the Principal Certifier. It is the developer's responsibility to adequately inform/brief for construction workers, sub-contractors and supervisors to ensure that the Construction Traffic Management Procedures are adhered to at all times.

42. 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.

43. Protection of Public Places

Where the work involves the construction 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 prior to commencement of works.

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.

44. Soil and Water Management Plan Implementation (SWMP)

The measures required in the Soil and Water Management Plan required by conditions above must be implemented prior to the commencement of works.

45. Street Tree Planting Distances

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

- a. minimum 3 metres either side of a driveway or vehicular crossing,
- b. minimum 2 metres from services and signage,
- c. minimum 1.5 metres from a stormwater outlet/pit,
- d. minimum 3 metres from street light posts, and
- e. minimum 15 metres from pedestrian crossing and traffic signals

PART D - DURING CONSTRUCTION WORKS

46. Hours of Work During Building 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.

47. Maintenance of Soil and Water Management Plan

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; and
- 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.

48. 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.

49. Storage of Materials

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

50. 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.

51. Road Construction and Road Drainage Construction for Future Public Carpark

The Contractor must arrange for a satisfactory inspection by Shellharbour City Council of the following works (subject to fees and charges):

- a. all road drainage works prior to backfilling of the work.
- b. all car park construction inspections as per Council's Subdivision Design Code.

Any 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.

52. 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.

53. Cut/Fill

The cut and fill areas must:

- a. be suitably retained,
- b. be in accordance with the approved plans,
- c. have a maximum grade of 45 degrees (1:1) where there is no retaining wall or no other method of stabilising the cut/fill area, and
- d. not exceed 1m in depth outside the external walls of a building, unless otherwise approved in writing by Council.

54. Connection to Council Pit and/or Pipe

Any connection to a Council pit and/or pipe must:

- a. be made at the pipe obvert (pipe only),
- b. be through a hole that is neatly made by cutting or drilling with any reinforcement encountered cut away,
- c. not protrude past the inner surface of the pit and/or pipe,
- d. have all junctions finished with 2:1 cement mortar,
- e. have a minimum pipe size of 150mm in diameter and either sewer grade PVC or concrete, and
- f. when the diameter of the connection is more than 1/3 the diameter of the Council pipe, connection is to be made by construction of a standard pit.

All construction is to be carried out as per Shellharbour Engineering Code requirements.

The Certifying Authority must arrange for a satisfactory inspection by Shellharbour City Council prior to backfilling. At least one working day's notice is required for the inspection and is to be arranged through Council's Customer Services.

An inspection fee will apply in accordance with Council's Fees & Charges.

55. Protection Fencing

The street tree protection fencing must be maintained intact at all times throughout the period of building work on the site. Machinery, structures, storage/disposal of any building materials and the like, must not be located within the fenced area at any time.

56. 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.

57. Swimming Pools - Filling with Water

No water must be placed in the pool/spa until the safety fences have been completed in accordance with the approved plans and specifications and inspected by the Principal Certifier.

58. Approved External Materials & Colours

The external treatment/appearance of the development must be in accordance with the approved plans reference DA0700 revision 3 dated 23.05.2022.

Pool fencing is approved as glass fencing or slatted fencing as required.

59. Excavation Material

Excavated material proposed to be reused on site must be confirmed to not be Acid Sulphate Soil (not derived from the alluvial layer).

Excavated material to be disposed of must be tested for waste classification prior to disposal.

Any contaminated material must be sent to a licenced landfill facility.

60. Contamination - Unexpected Finds Contingency

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.

61. Aboriginal Heritage

If any Aboriginal archaeological artefacts are encountered during construction works, all ground disturbance in the area of the find must cease and the Department of Industry and Environment (DPIE) be contacted immediately to determine an appropriate course of action in line of relevant legislation.

62. Survey Certification

A survey certificate, signed by a Registered Surveyor, shall be submitted for approval when the formwork for the main floor area and basement entry ramp is completed. This certificate shall certify that any main floor area and basement entry will be constructed at the designed

level.

63. Pool Backwash - Drainage

Should disposal of backwash from the filtration unit be required, this must be drained to the sewer.

64. Residential Flooding Survey Certification

A survey certificate, signed by a Registered Surveyor, shall be submitted for approval when the formwork for the main floor area and basement entry ramp is completed. This certificate shall certify that any main floor area and basement entry will be constructed at the designed level.

65. Driveway and Layback - From Kerb to Property Boundary

A standard vehicular concrete driveway and layback must be constructed between the kerb and the property boundary. The driveway must:

- a. maintain a perpendicular alignment from the kerb to the property boundary line
- b. have a width as shown on the approved plan reference DA-0100 revision 13,
- c. not interfere with the existing public utility infrastructure
- d. be located 500mm clear of all drainage structures and 2m from any street tree
- e. be finished with a slip resistant coating, and
- f. be constructed by Council, or a Council approved contractor, at the developer's expense, including all alterations of public infrastructure where necessary.

Where there is conflict between the location of the proposed driveway and the assets of a service utility, such as Telstra pits/manholes, the relevant service provider must be contacted prior to any driveway works commencing. It is an offence to modify or tamper with the assets of a service provider.

PART E - PRIOR TO OCCUPATION

66. Occupation Certificate

Compliance with all conditions of Parts A to E **of this consent** 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.

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 > Plumbing, building and developing > Developing > Land development or telephone 13 2092.

68. BASIX

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

69. 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.

70. Inspection of Stormwater Pipes

All stormwater pipes within the at grade open carpark areas and within drainage easements intended to be dedicated to Council must be inspected by CCTV. The CCTV must be carried out after all earthworks and road pavement works within the locality of the pipelines has been completed. A copy of the CCTV inspection must be recorded and submitted to the Council prior to the release of the Occupation Certificate. Damaged pipes must either be replaced or repaired to Council's satisfaction prior to the issuing of an Occupation Certificate.

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. Completion of Landscape Works

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

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

73. Street Trees

Eight trees must be relocated and/or newly planted on the Council footpath reserve, as follows:

- a. 4 x 75 Lt Tristrianopsis laurina "Luscious" to be located on Waterfront Promenade and 4 x 75 Lt Hibiscus tiliaceus to be located on Civic Avenue
- b. two x hardwood stakes with 50mm hessian ties, fixed in a figure 8, to support each tree
- c. minimum 75mm depth of organic mulch applied a minimum 600mm diameter surrounding the base of the trunk

- d. 1m x 1.5m timber edging installed at the base of the tree constructed from the back of the kerb
- e. trees must be setback a minimum 900mm from the back of the kerb or where a footpath exists, the tree must be planted midway between the footpath and kerb. Where the tree is less than 900mm from the footpath, root barriers must be installed.

74. Street Tree Pre-Occupation Inspection

The street trees must be inspected by Council prior to the occupation of the development. It is the responsibility of the developer to notify Council for the street tree inspection.

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 and Public Parking

A sign, legible from the street, must be permanently displayed at the Civic Avenue car park entrance and entrance to Building A and B to indicate the availability of visitor and public parking prior to the release of the Occupation Certificate.

77. Pedestrian Wind Environment

The treatments and landscaping recommended in the Pedestrian Wind Environment Statement reference WG154-01DF02(REV4)- WS REPORT dated 18.03.2022 and the subsequent wind tunnelling testing are to be in place prior to issue of an Occupation Certificate and retained in perpetuity.

78. SEPP 65 Design Verification Statement

Prior to the issue of an Occupation Certificate, Design Verification from a qualified designer must be submitted to the Principal Certifier. Design Verification is a statement in which the qualified designer verifies that the residential flat development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No 65 Design Quality of Residential Flat Development.

79. Liveable Housing Design Guidelines

Prior to the issue of an Occupation Certificate, certification from an appropriately qualified person must be provided to the Principal Certifier certifying that 28 of the residential apartments have been constructed to meet the performance requirements of Silver Level Liveable Housing Design Guidelines (or updated standards).

80. Certification of Adaptable Housing

Certification must be provided from an appropriately qualified person in adaptable housing that the adaptable housing units have been designed and constructed to meet the performance requirements of Australian Standard 4299-1995 Adaptable Housing (or any subsequent version). The certification must be accompanied with relevant documentation as detailed in AS 4299-1995 and submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

81. Sydney Water Trade Waste Agreement

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

82. Operational Management Plan

Prior to the issue of an Occupation Certificate the developer shall submit an Operational Management Plan (OMP) to the Principal Certifier for approval. The OMP is to address all operational and management procedures to be employed, to ensure that the public parking area within lot 4006 DP 1219051 can be adequately maintained, operate safely and public access is retained.

a. General Building Requirements:

- i. Ground Floor Tenancies in terms of use and hours of operation to align with this consent,
- ii. Operating hours for communal open spaces both internal and external,
- iii. Operating hours and delivery hours for retail units to align with this consent,
- iv. Public access is retained in perpetuity to the relevant parking areas within lot 4006 DP1219051,
- v. The internal and external communal open space areas within the development hereby approved are to be available for use by all residents within lot 4204 DP1254978 and Lot 4006 DP1219051 in perpetuity,
- vi. 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,
- vii. 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,
- viii. Loading and deliveries must not occur between 10:00pm and 7:00am,
- ix. At all times the service vehicle docks, car parking spaces and access driveways must be kept clear of goods and must not be used for storage purposes, including garbage storage, and
- x. **Public right of access must be maintained from Waterfront Promenade to Civic Avenue via the through site link in Building B in Lot 4204 DP1219051 in perpetuity.**

b. Waste removal requirements:

- i. The collection of waste and recycling must only occur between 7.00am and 7.00pm weekdays,
- ii. Garbage and recycling must be collected wholly within the site,
- iii. Requirement that all bins must be cleaned on a regular basis by building management,
- iv. 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),
- v. For any 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 onsite and made available to Council Officers upon request.

The Operational Plan of Management 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 consent of Council.

83. Operational Management Plan - 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 Operation Plan of Management required by the condition above in perpetuity.

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

84. Intercom for Parking Levels

The ground floor parking areas and basement parking levels must be accessible to 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.

85. Relevant Leases, Licenses and Easements

Prior to issue of the Occupation Certificate the necessary leases, licenses or easements as relevant need to be obtained from the appropriate authorities including Shellharbour City Council.

This shall include a right of carriage, easement for services and other requirements over Lot 4205 DP1254978.

86. Flood Risk Signage

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

87. Swimming Pool Registration

The swimming pool must be registered on the NSW State wide Swimming Pool Register prior to the issue of an Occupation Certificate.

The following details will be required during registration: owner name, address, contact details, the type of pool, and the approximate age of the pool. A 'self-assessment' checklist will also need to be completed when registering the swimming pool.

Registration of the swimming pool can be completed free of charge by visiting:
www.swimmingpoolregister.nsw.gov.au <<http://www.swimmingpoolregister.nsw.gov.au>>

88. Pool Safety

The pool must be enclosed with a fence or barrier that complies with AS1926.1-2012, the Swimming Pool Act 1992 and Swimming Pool Regulations 2018. Compliance with this requirement must be verified prior to the issue of the Occupation Certificate.

Note:

- An approved resuscitation notice must be displayed.
- Gates must swing away from the pool area and must be self-closing.
- Any window that opens into the pool area must be protected in accordance with AS1926.1-2012. Council recommends that windows do not open into pool areas as any protection may obstruct egress from the building in an emergency.
- An effective fence height of 1.2m, and including the prescribed non climbable zone, must be maintained at all times.
- Boundary fences forming part of the pool fence, and including the prescribed non climbable zone, must be no less than 1800mm in height.

PART G - AFTER ISSUE OF OCCUPATION CERTIFICATE/DURING OCCUPATION

89. BASIX Commitments

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

90. Street Tree Bond Refund

The street tree bond will be refunded following a six month maintenance period commencing from the date of the issue of the Occupation Certificate, provided the street trees remain in a satisfactory condition. In the event that any street trees are found damaged, dying or removed, Council will have the option to retain the whole or part of the bond. The developer/Certifying Authority must notify Council for a reinspection of the street trees.

91. Building C – Ground floor Retail Tenancies

The following conditions must be complied with during occupation of the ground floor tenancies.

- a. Hours for Operation 7am - 7pm
- b. Design of the final fit out for ground floor tenancies must ensure they achieve the attenuation measures listed in the approved Acoustic Assessment reference 20211024.1 revision 3 dated 16.12.2022.
- c. Delivery and collection times restricted to between 7am and 8pm daily.

92. 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.

93. Car Parking Signage and Allocation

Parking spaces must be suitably signed in accordance with the parking allocation plan required by condition 29.

The 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 any future strata subdivision.

The public parking spaces must always be available for public parking and must not at any time be allocated, sold or leased to an individual owner/business.

94. 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).

95. Waste Receptacles

Adequate receptacles must be used to store all landfill and recyclable waste streams pending disposal. Such receptacles must be regularly emptied and waste must not be allowed to lie or accumulate on the premises other than in the receptacle. Provision must be made for the separation and recycling of waste.

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

96. Building Use

The retail units hereby approved and shown on plan reference DA-0100 rev. 13 dated 23.05.2022 are approved as retail premises in accordance with the definition from Shellharbour Local Environmental Plan 2013 as follows:

retail premises means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following—

(a), (Repealed)

(c) food and drink premises,

(d) garden centres,

(e) hardware and building supplies,

(f) kiosks,

(g) landscaping material supplies,

(h) markets,

(i) plant nurseries,

(j) roadside stalls,

(k) rural supplies,

(l) shops,

(la) specialised retail premises,

(m) timber yards,

(n) vehicle sales or hire premises,

but does not include farm gate premises, highway service centres, service stations, industrial retail outlets or restricted premises.

97. Enclosure of Balconies

At no time shall any of the balconies within the development site be enclosed.

98. Air Conditioning Units to Façade

Approval is not granted for the installation of individual air conditioning units to the facade or balconies of the building without screening or an enclosure.

99. 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.

100. Parking

Proposed parking areas, service bays, truck docks, driveways and turning areas shall be maintained clear of obstructions and be used exclusively for purposes of vehicle parking loading/unloading, and vehicle access respectively for the life of the development. Under no circumstances are such areas to be used for the storage of goods or waste materials.

101. Waste Management

Waste shall be managed as follows:

- a. Waste management shall be in accordance with the approved Waste Management Plan
- b. Between collection periods, all waste/recycling materials generated onsite will be securely enclosed in bins and stored in the designated bin storage rooms and these rooms maintained to a reasonable standard in terms of hygiene and cleanliness.
- c. The collection of waste and recycling must only occur between 7.00am and 8.00pm weekdays.
- d. All waste collection and storage is to be contained internally within the buildings.

102. Offensive Noise

The use of the Communal Open Space including the swimming pool must not give rise to the transmission of offensive noise. Offensive noise is defined in the Protection of the Environment Operations Act 1997 (as amended).

103. Flooding Storage of Materials

The Probable Maximum Flood (PMF) Level for the proposed development is as follows:

Proposed development	Probable Maximum Flood (PMF) Level
Building D1	8.1 m AHD
Building D2	6.1 m AHD
Building D3	8.8 m AHD
Open car park between Building D1 and D3	6.5 m AHD
Open car park in the southern side of Building D2	6.2 m AHD

During Occupation at no time shall materials be stored which may cause pollution or be

potentially hazardous during a PMF event.

PART H – OTHER APPROVALS

104. 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	DA0350/2022	CNR-43371	Madeline Cartwright	1/08/2022	22/08/2022	22/08/2022

Address	Land Title
5 & 6 CIVIC AVENUE AND 9 WATERFRONT PROMENADE SHELL COVE 2529	Lot 4204 & 4205 DP 1254978, Lot 4006 DP 1219051

Scope of Development Application or Planning Proposal

Two residential flat buildings and one mixed use building comprising a total of 155 apartments and 360sqm of retail space.

As shown in the below site plan from Endeavour Energy's G/Net master facility model:

There is:

- An easement and restrictions for fire rating and swimming pool or spa benefitting Endeavour Energy (indicated by red hatching) for padmount substation no. 36761.
- Low voltage and 11,000 volt / 11 kilovolt (kV) high voltage underground cables and underground earth cables to the Waterfront Promenade road verge / roadway.
- Low voltage and 11 kV high voltage underground cables to the Harbour Boulevard and Cove Boulevard road verges / roadways.
- Low voltage underground cables to the Civic Avenue road verge / roadway.



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	Bush Fire	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	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 type="checkbox"/>	7	Contamination	Remediation may be required of soils or surfaces impacted by various forms of electricity infrastructure.
<input type="checkbox"/>	<input 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 checked="" 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 checked="" 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	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"/>	17	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"/>	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 checked="" 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 type="checkbox"/>	24	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 Electricity Supply Act 1995 (NSW).
<input type="checkbox"/>	<input checked="" type="checkbox"/>	25	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"/>	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 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 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 appropriate to the electricity infrastructure being protected need to be provided to avoid the creation of climb points.
<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	The performance of the generation system and its effects on the network and other connected customers needs to be assessed.
<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 may result in the interruption of supply.

Condition	Advice	Clause No.	Issue	Detail
			Other	

Endeavour Energy	
Completed by:	Decision
Cornelis Duba	Approve (with conditions)
Reason(s) for Conditions / Objection (if applicable)	
<ul style="list-style-type: none"> The Statement of Environmental Effects does not appear to address the easement or the restrictions affecting the site for existing padmount substation no. 36761. The building does not encroach the easement. The building appears may encroach the restriction for fire rating. <p>if any part of the building encroaches the restriction, the applicant will need to provide Endeavour Energy's Easements Officer with an engineer's certificate identifying that all external surfaces of the building within the fire rating zone meet the appropriate fire rating as per Endeavour Energy's terms for the restriction and in accordance with Australian Standard AS 1530 'Fire Test to Building Material – Standard'. The engineer must also specify the materials to be utilised and the fixing instructions for those materials in order to meet the stated fire rating.</p> <ul style="list-style-type: none"> For Endeavour Energy's purposes the separation required from electricity infrastructure to a swimming pool includes the 'pool zone' being 'arms reach' or 1.25 metres from the water edge, as referred / defined in Australian/New Zealand Standard AS/NZS 3000:2018 'Electrical installations' as updated from time to time. <p>The proposed / potential swimming pools do not appear to encroach the restriction for swimming pool or spa.</p> <ul style="list-style-type: none"> All activities or works affecting the easement or relevant to the restrictions for the padmount substation (even if not part of the Development Application) need to be referred to Endeavour Energy's Easement Officer for assessment and possible approval if they meet the minimum safety requirements and controls. However please note that this does not constitute or imply the granting of approval by Endeavour Energy to any or all of the proposed encroachments and / or activities within the easement or restrictions. <p>For further information please refer Endeavour Energy's Mains Design Instruction MDI 0044 'Easements and Property Tenure Rights' which deals with activities / encroachments within easements.</p> <p>Please note Endeavour Energy's Easement Officers do not have access to the NSW Planning Portal. To resolve the easement management matters direct contact with the Easement Officer should be made.</p> <ul style="list-style-type: none"> The Shell Cove Town Centre (Precinct D) Proposed Utility, Sewer & Water Strategy prepared by Arcadis is dated 10 March 2016. The Statement of Environmental Effects prepared by Ethos Urban is dated 6 July 2022 but does not provide any updated / additional advice regarding the electricity infrastructure strategy. Endeavour Energy's Asset Planning & Performance Branch whilst not having undertaken a detailed analysis of the Development Application have provided the following advice: <p><i>Asset Planning & Performance Branch have no concerns from a network planning perspective. The high voltage distribution master plan for the Shell Cove Boat Harbour development precincts is well progressed.</i></p>	

There is currently one dedicated in-service 11 kV distribution feeder SHD2/B - Boat Harbour No 1 from Shellharbour Zone Substation located at Wattle Road Shellharbour (Lot 1 DP 439066). Additionally, there is a second 11 kV feeder SHJ2/B - Boat Harbour No 2 under design and should be installed and commissioned this financial year.

There are currently high voltage cables and five padmount substations (no.s 55485, 36761, 35878, 54223 & 54224) installed in Precinct D.

- The Architectural Plans show provision for an additional padmount substation to the Harbour Boulevard road frontage.
- As well as the capacity / provision of the padmount substation, other factors such as the size and rating / load on the conductors and voltage drop (which can affect the quality of supply particularly with long conductor runs) etc. need to be assessed. However the extent of any works required will not be determined until the final load assessment is completed.
- Any required padmount substation will need to be located within the property (in a suitable and accessible location) and be protected (including any associated cabling) by an easement and associated restrictions benefiting and gifted to Endeavour Energy. Please refer to Endeavour Energy's Mains Design Instruction MDI 0044 'Easements and Property Tenure Rights'.
- Generally it is the Level 3 ASP's responsibility (engaged by the developer) to make sure substation location and design complies with Endeavour Energy's standards the suitability of access, safety clearances, fire ratings, flooding etc. In this instance the proposed building line encroaches the restriction for fire rating required for the padmount substation.
- To ensure an adequate connection, the applicant will need to engage an Accredited Service Provider (ASP) of an appropriate level and class of accreditation to assess the electricity load and the proposed method of supply for the development.
- The driveways should be designed to increase the separation to any electricity infrastructure on the road verge as much as reasonably possible.
- The planting of large / deep rooted trees to near electricity infrastructure is opposed by Endeavour Energy. Existing trees which are of low ecological significance in proximity of electricity infrastructure should be removed and if necessary replaced by an alternative smaller planting. The landscape designer will need to ensure any planting near electricity infrastructure achieves Endeavour Energy's vegetation management requirements.
- Screening vegetation around a padmount substation should be planted a minimum distance of 800mm plus half of the mature canopy width from the substation easement and have shallow / non-invasive roots. This is to avoid trees growing over the easement as falling branches may damage the cubicle and tree roots the underground cables. All vegetation is to be maintained in such a manner that it will allow unrestricted access by electrical workers to the substation easement all times.
- Not all the conditions / advice marked may be directly or immediately relevant or significant to the Development Application. However, Endeavour Energy's preference is to alert proponents / applicants of the potential matters that may arise should development within closer proximity of the existing and/or required electricity infrastructure needed to facilitate the proposed development on or in the vicinity of the site occur.

Yours faithfully

Cornelis Duba

Development Application Specialist

Sustainability & Environment

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Endeavour
Energy

REASONS FOR THE IMPOSITION OF CONDITIONS

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

Advisory Notes - General

Critical Stage Mandatory Inspections

Mandatory inspections of the building work must be carried out by the Principal Certifier at various stages of construction in accordance with clause 162A of the *Environmental Planning & Assessment Regulation 2021*.

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

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.

Obstacle Height Limitation - Airport

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

Failure to Comply with Consent

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

Lapsing of Development Consent

In accordance with 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.

Prescribed Payment System Tax Obligations

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

Dial Before You Dig

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets, please contact Dial Before You Dig at www.1100.com.au <<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>> 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

Compliance with *Building Code of Australia*

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

END OF RECOMMENDED CONDITIONS