




**PLANNING PANEL (SOUTH)**  
**ASSESSMENT REPORT SUMMARY AND RECOMMENDATION COVER SHEET**

<b>Panel Reference</b>	<b>PPSSTH-22</b>
<b>DA Number</b>	<b>DA0610/2019</b>
<b>LGA</b>	<b>Shellharbour City Council</b>
<b>Proposed Development</b>	11 storey mixed use development including hotel with 117 rooms, 32 serviced apartments, 42 residential apartments, function centre, food and drink premises and basement parking.
<b>Development Characterisation</b>	<b>Mixed use tourist and visitor accommodation and residential accommodation.</b>
<b>Location</b>	Lot 4021 DP1254658 (Formerly Lot 4008 DP1219051) 10 Waterfront Parade, Shell Cove (Precinct D)
<b>Applicant/Owner</b>	Covecom Pty Ltd (applicant) Shellharbour City Council (landowner)
<b>Date of DA lodgement</b>	18 December 2019
<b>Public Notification Period</b>	17 January 2020 – 17 February 2020
<b>No. of Submissions</b>	Nil
<b>Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011</b>	<b>Clause 3 – Council related development over \$5 million</b> Development that has a capital investment value of more than \$5 million as the council is the owner of any land on which the development is to be carried out. The proposed development has a CIV of \$74,355,724.
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• SEPP - (State and Regional Development) 2011 – Council related Development over \$5 million</li> <li>• SEPP (Coastal Management) 2018</li> <li>• SEPP 55 – Remediation of land</li> <li>• SEPP 65 – Design Quality of Residential Apartment Development.</li> <li>• SEPP (Building Sustainability Index – BASIX) 2004</li> <li>• Shell Cove Boat Harbour Concept Plan 07_0027 MOD 1</li> <li>• Shellharbour Local Environmental Plan 2013</li> <li>• Shell Cove Design Guidelines Precinct D – Amendment 2.</li> <li>• Shellharbour Development Control Plan 2013</li> <li>• Likely impacts;</li> <li>• Site suitability;</li> <li>• Any submissions;</li> <li>• Public Interest.</li> </ul>
<b>Report prepared by</b>	Madeline Cartwright, Principal Planner – Development Assessment
<b>Signature</b>	
<b>Report Endorsed by</b>	Grant Meredith, Group Manager - City Development
<b>Signature</b>	
<b>Report endorsed by</b>	Melissa Boxall Director Community and Customers
<b>Signature</b>	
<b>Date of report</b>	20 April 2021

**Attachment 1 – Recommended Conditions**

**Attachment 2 – Proposed Plans**

**Attachment 3 – Site Photos**

**Attachment 4 – Background to Planning Framework for Shell Cove Boat Harbour and Marina Precinct**

**Attachment 5 – Approved plans for DA0595/2018 (Earthworks)**

**Attachment 6 – Concept Approval Compliance Table**

**Attachment 7 – Apartment Design Guidelines Compliance Table**

**Attachment 8 – Local Environmental Plan 2013 Compliance Table**

**Attachment 9 – Shell Cove Design Guidelines Precinct D Compliance Table**

**Attachment 10 - Development Control Plan Compliance Table**

**Attachment 11 – Shadow Studies**

**Attachment 12 – Cross Ventilation Plans**

**Attachment 13 – Storage Plans**

**Attachment 14 – Referrals Undertaken**

**Attachment 15 – Town Centre Masterplan Parking Allocation (UDGs Precinct D)**

## 1. Purpose of this report

The purpose of this report is to seek the determination from the Planning Panel (Panel hereafter) for a development application (DA) submitted to Shellharbour City Council (Council) for the construction of an 11 storey mixed use development including hotel, serviced apartments, residential apartments and basement parking.

The proposed building will be sited to the north of the Shell Cove Town Centre, with the marina to the east and wetlands to the north. **Figure 1** below details the location of the site in the context of the Shell Cove area.



**Figure 1** - Location map – site marked in red

The application is being referred to the Panel due to the proposal having a capital investment value of \$74,355,724. Council is the owner of the land on which the development is to be carried out and the Shell Cove Project is a collaboration between Shellharbour City Council and Frasers Property Australia.

In this regard, the development is classed as Regionally Significant development under State Environmental Planning Policy (State and Regional Development) 2011. Under Part 4, Division 4.2, Section 4.5 (b) of the *Environmental Planning and Assessment Act 1979* (the Act hereafter) the Regional Planning Panel for the area (Southern) is designated as the Determining Authority.

The application was lodged as integrated development under section 4.8 of the *Environmental Planning and Assessment Act 1979* as requiring a controlled activity approval under the *Water Management Act 2000*. The application was referred to the Natural Resources Access Regulator (NRAR) and General Terms of Approval (GTAs) were issued dated 2 March 2020. These GTA's have been included in Part H of the recommended conditions (**Attachment 1**).

## 2. Background and Context of the Development Site

The site forms part of a larger master planned area of Shell Cove. This application represents part of the gradual development of land within the Shell Cove area within the remit of the approved Shell Cove Boat Harbour Concept Plan 07\_0027 MOD 1 (Concept Approval).

**Attachment 4** details the background of this area and provides context for the history of the Shell Cove area and the application site.

As discussed in **Attachment 4**, a modification to the Concept Approval (formally known as s75W) was submitted and approved by the Independent Planning Commission on 18 March 2019 (MP07\_0027 MOD 1). This modification resulted in some fundamental changes to the layout, built form and floor space proposed. Specifically for the hotel site, the modifications were as follows:

- i. Reconfiguration to the town centre layout including relocating the landmark (hotel) building to the northern gateway;
- ii. Increasing the maximum building height to permit a mixed use landmark (hotel) building up to 11 storeys in the Town Centre; and
- iii. Including serviced apartments and residential accommodation as permissible uses within the landmark (hotel) building.

The site sits to the north of the Town Centre within Precinct D. With residential Precinct E to the north. The site has frontage to Aquatic Drive to the northern boundary and Waterfront Promenade to the western boundary. The Marina foreshore and water is to the east. The site adjoins the Shell Cove Town Centre Park to the south.

The application site was created by subdivision DA0735/2018 approved by Council in May 2019, roads and relevant drainage was approved under DA0143/2016 by Council in March 2018.

Lot 4021 DP1254658 and the street address of 10 Waterfront Parade is an updated lot and DP reference as the registration occurred post lodgement of the application.

**Figure 2** below details approved subdivision plan with proposed site highlighted.

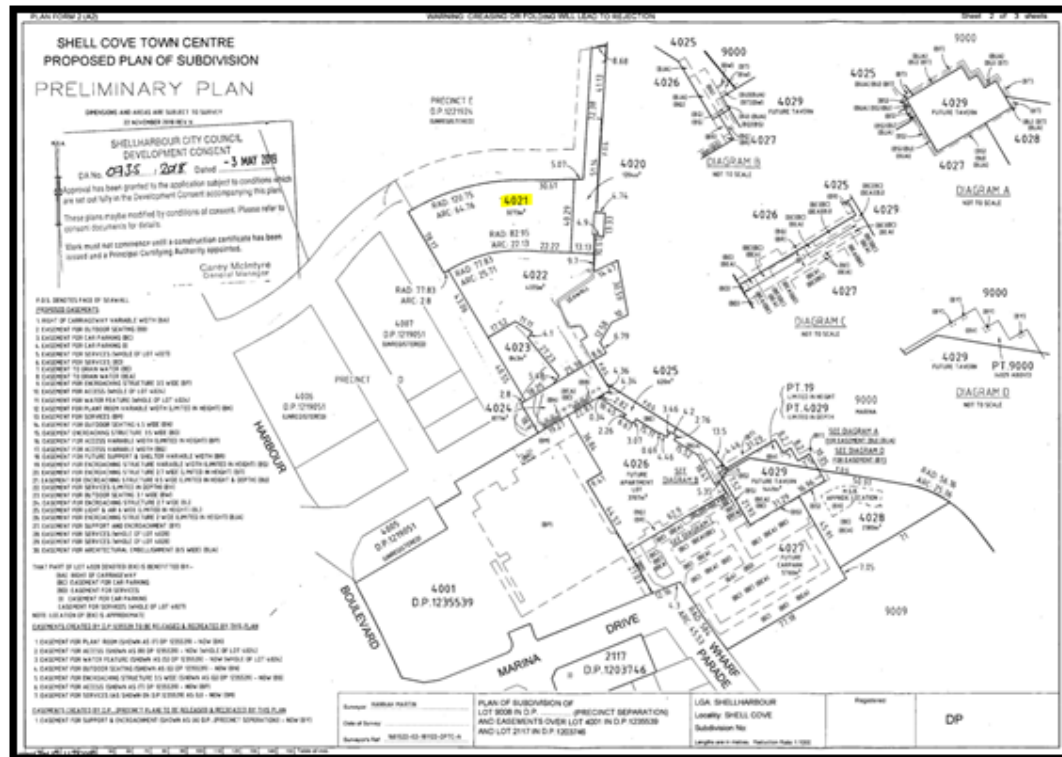


Figure 2 - approved subdivision plan DA0735/2018

The site was subject to a previous DA (DA0595/2018) bulk excavation (Civil works) in two stages:

- Stage 1: Preliminary excavation of the basement footprint, with the extent subject to geotechnical advice- Excavated material = 12,674m<sup>3</sup>;
- Stage 2: Retaining wall construction and completion of overall excavation to achieve design basement levels followed by building construction –Excavated material = 40,308m<sup>3</sup>.

DA0595/2018 was approved subject to conditions by Council on 28 May 2019. This approval allows the bulk of the earth works to occur immediately preceding any subsequent approval of the mixed-use building. Approved plans for DA0595/2018 have been included as **Attachment 5**.

Notwithstanding, a condition has been imposed within DA0595/2018 to ensure the site be returned to its original state (re-filled and re-vegetated to stabilize the land) should any future development application for the erection of the hotel is refused. This has been done to ensure that the bulk earthworks do not pre-empt approval of the hotel development.

For ease of referenced **Table 1** below details all relevant Development Applications references, date when approved and determining authority.

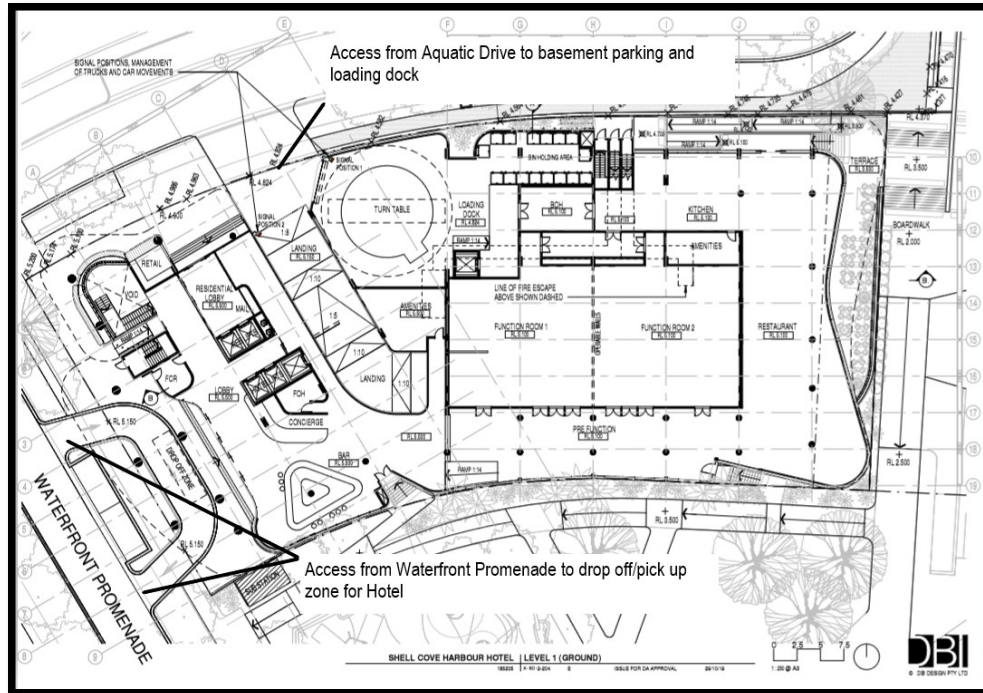
<b>Development Application Reference</b>	<b>Proposal</b>	<b>Date of Determination</b>	<b>Determining Authority</b>
DA0143/2016	Subdivision to Create Three Lots (Lots 2,3 & 4), Three Residual Lots	March 2018	Council

Table 1			
Development Application Reference	Proposal	Date of Determination	Determining Authority
	(Lots 5,6 & 7), Create Public Roads 10, 11 and 12 & Construction of Landscape and Public Square		
DA0385/2017 (part 3) DAM0085/2019	Shop Top Housing Compromising Of 45 Residential Apartments, 8 Food And Drink/Business Premises, 3 Lot Stratum Subdivision And Associated Works Comprising Of A Carpark And Public Domain Works	May 2019	Planning Panel (Southern)
DA0595/2018	Earthworks DA	May 2019	Council
DA0735/2018	Staged Torrens Title Subdivision Of Land from 3 lots into 21 Lots.	May 2019	Council
DA0400/2019	Public foreshore embellishment (north ) including area directly adjacent to eastern elevation of DA site	June 2020	Council
DA0402/2019	Public foreshore embellishment (south) including Town Centre Park directly adjacent to southern elevation of DA site	June 2020	Council

### 3. Description of Development

The proposed development comprises of:

- An eleven (11) storey building with a maximum height of 42.1 metres, consisting of:
  - i. Hotel related functions such as lobby, restaurant, bar, waste storage and loading dock on ground floor,
  - ii. 117 hotel guest rooms on levels 2-4,
  - iii. 32 serviced apartments on levels 5-7 with communal open space, pool/bar and gym on level 5,
  - iv. 42 residential apartments on levels 8-11 with associated communal open space,
  - v. Four (4) level basement including a total of 337 parking spaces, bicycle storage and day spa.
- Vehicle access to basement parking from Aquatic Drive (Road 11) to the north of the site with drop off/pick up for the hotel from Waterfront Promenade (Road 10). Access points detailed on **Figure 3** below.



**Figure 3** – vehicle access points

The site area has a total of 3,278sqm. The proposal does not include subdivision. The subject site is currently vacant.

**Figure 4** shows the location of the site in relation to the surrounding precinct.



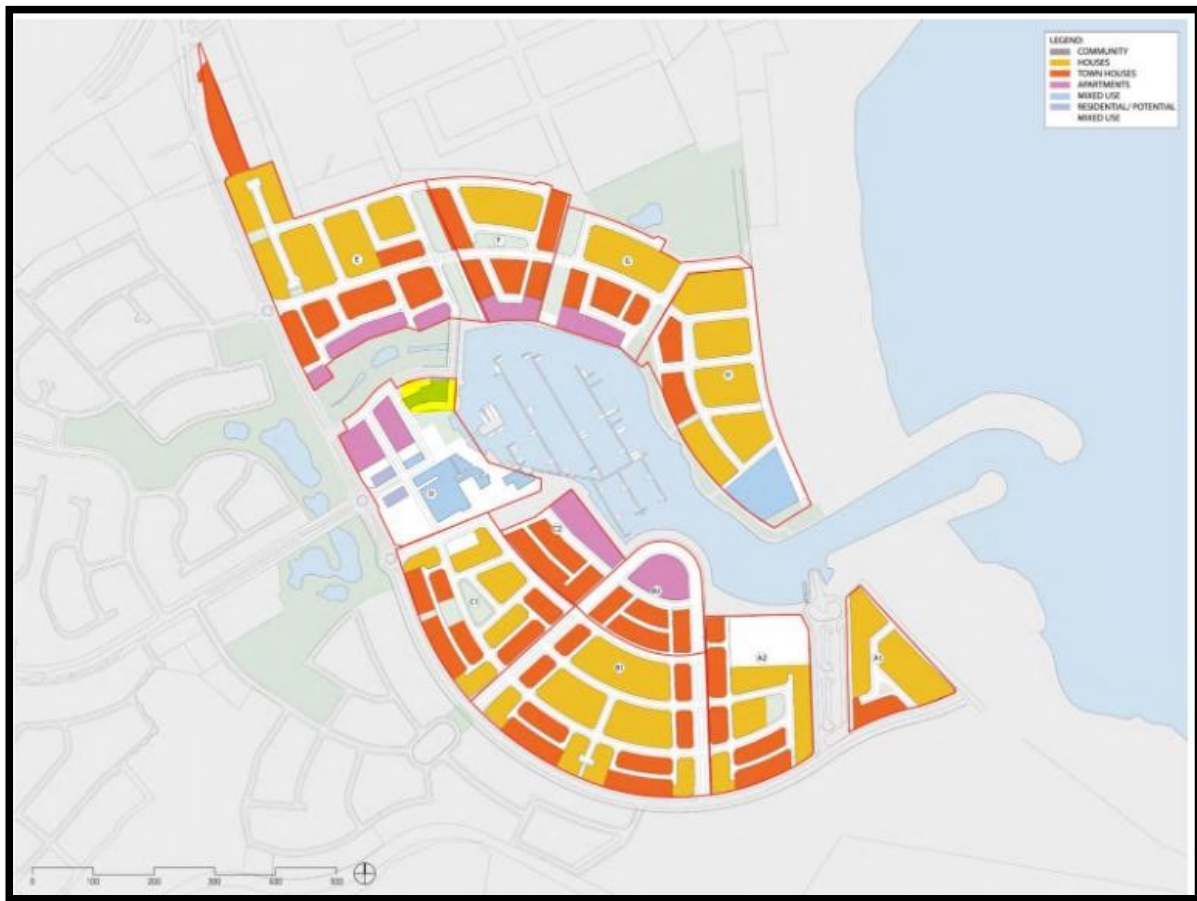
**Figure 4** - Location plan (site highlighted yellow)

#### 4. Assessment against Concept Approval

The Concept Approval was accompanied by a masterplan that sought to establish the characteristics for development within each precinct.

##### i. Landuses

The proposed development is consistent with the Concept Plan Land Uses by providing mixed-use development in this section of Precinct D as identified in the indicative housing typologies plan taken from page 19 of the Shell Cove Boat Harbour Precinct Section 75W Modification dated 8/8/2017 prepared by Ethos Urban, **Figure 5** below.



**Figure 5** – Indicative Housing Typologies Plan (application site highlighted in yellow)

##### ii. Dwelling Yield

This proposal is the second development within Precinct D that has a residential component and proposes 42 residential apartments. The maximum dwelling yield for this precinct is 200-250 dwellings. A mixed-use development including 45 apartments has already been approved within Precinct D under DA0385/2017. This leaves a maximum of 163 dwellings for the remainder of Precinct D, which is identified in the Indicative Housing Typologies Plan as apartments (pink in **Figure 5**) and residential/potential mixed use (purple in **Figure 5**).

For clarity, the remaining residential lots are outlined in **Figure 6**.

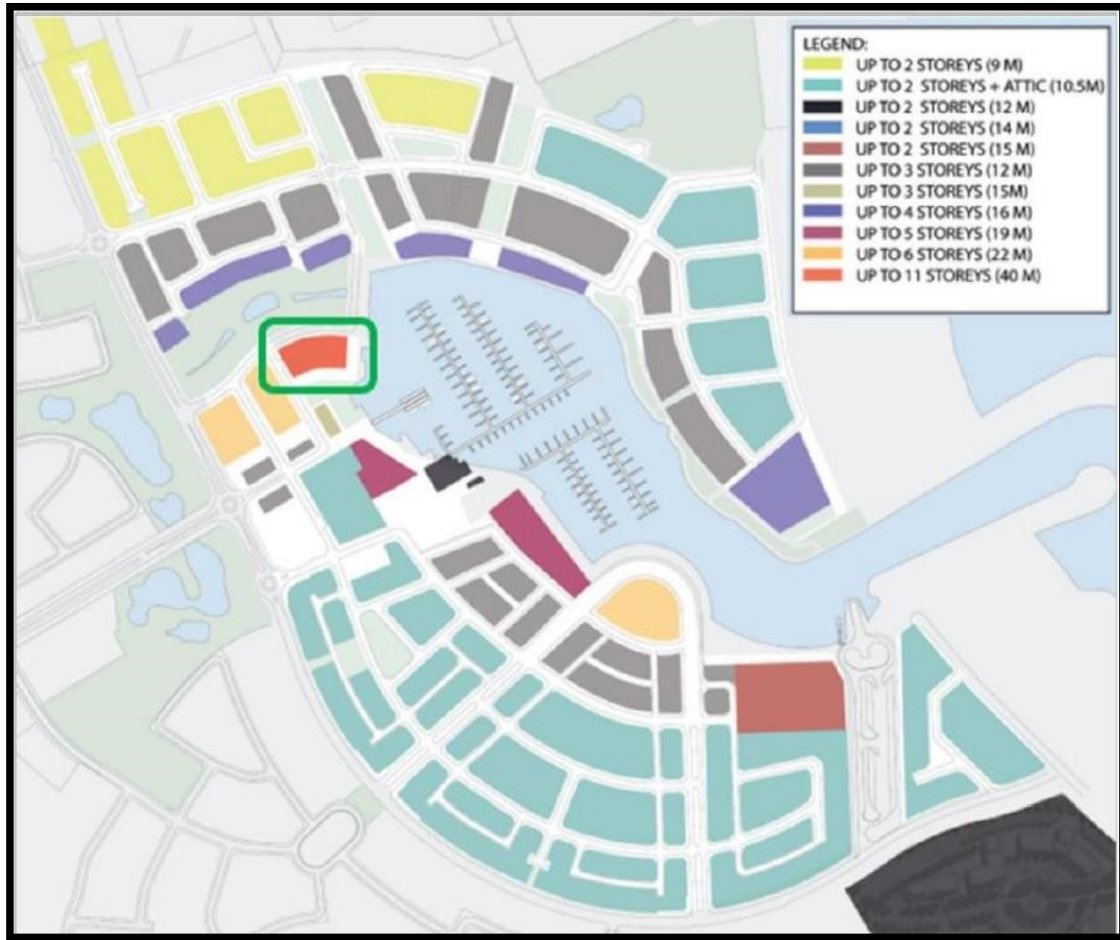


**Figure 6** – Vacant residential remaining residential lots within Precinct D.

The remaining number of dwellings (maximum of 163) equates to 65% of the maximum yield for Precinct D. The remaining lots as shown in **Figure 6** make up approximately 57% of the land identified by the Concept Approval for residential development. The potential height and storeys for the lots outlined in pink in **Figure 6** is 6 storeys (22 metres) and the lots outlined in blue in **Figure 6** is 3 storeys (12 metres). The remaining lot yield will be suitably delivered over the remaining lots within Precinct D.

iii. Height and number of storeys

The indicative height plan included in the Shell Cove Boat harbour Precinct Section 75W Modification on page 20 indicates that the indicative height in the portion of Precinct D to which this proposal relates permits a maximum of 11 storeys in height (40 metres). **Figure 7** below shows the indicative height plan with heights added to the legend for clarity.



**Figure 7** – Indicative Height Plan (application site outlined in green)

The proposed development will have a maximum height of 42.1 metres. The proposal includes an 11-storey building and a building height to the parapet of the building of 40 metres. The roof top plant and screening maximum height will be 42.1 metres.

The roof top plant area will contain the lift over run, a hatch to access the roof for maintenance purposes, ventilation shafts, cooling towers as well as other mechanical plant. A 2-metre high screen will be installed to screen these structures. There will also be two skillion roof lights within the roof structure, maximum height 1.5 metres above roof. The plant area is set away from the edge of the roof within the centre of the structure. **Figure 8** below details this area.

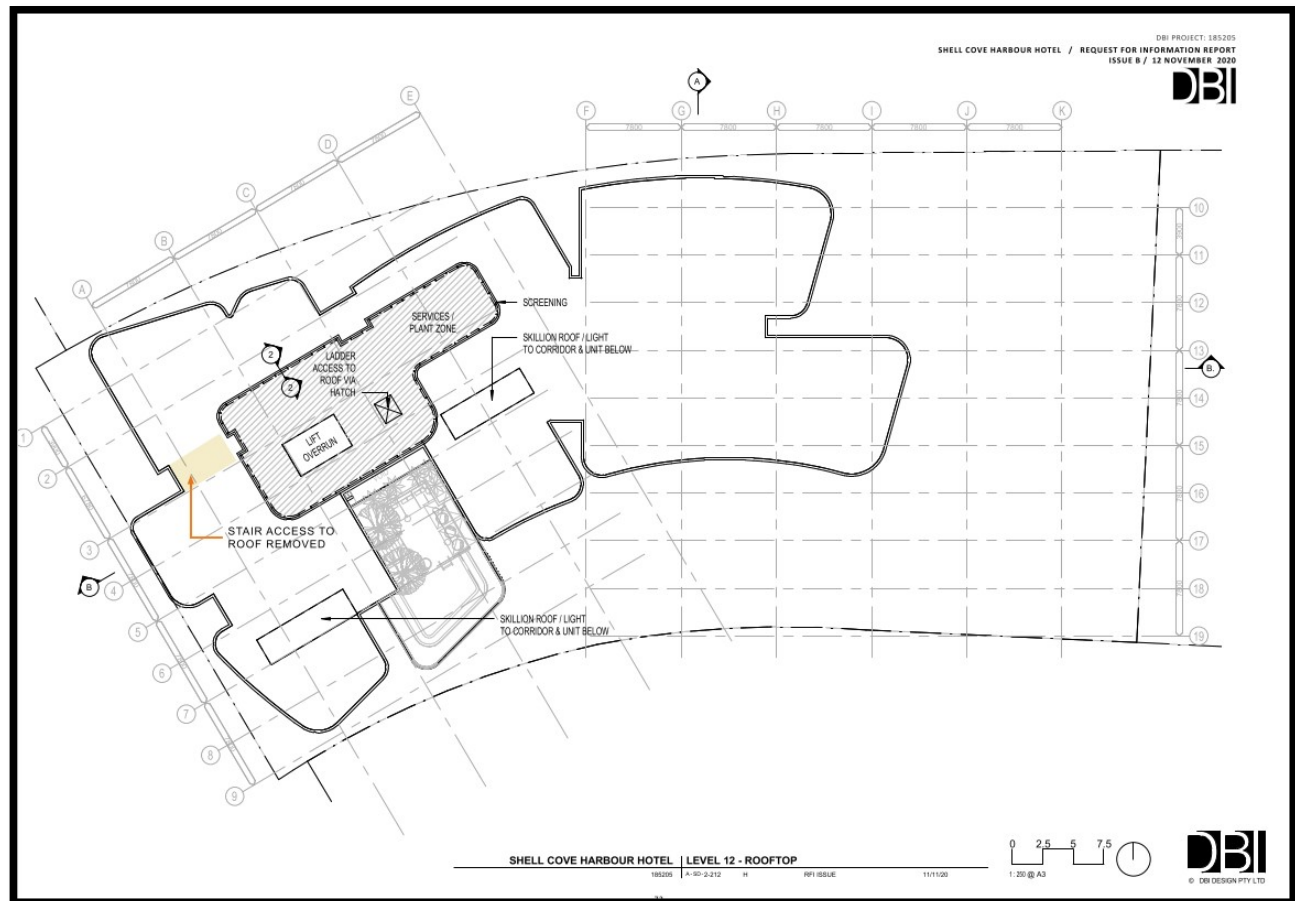
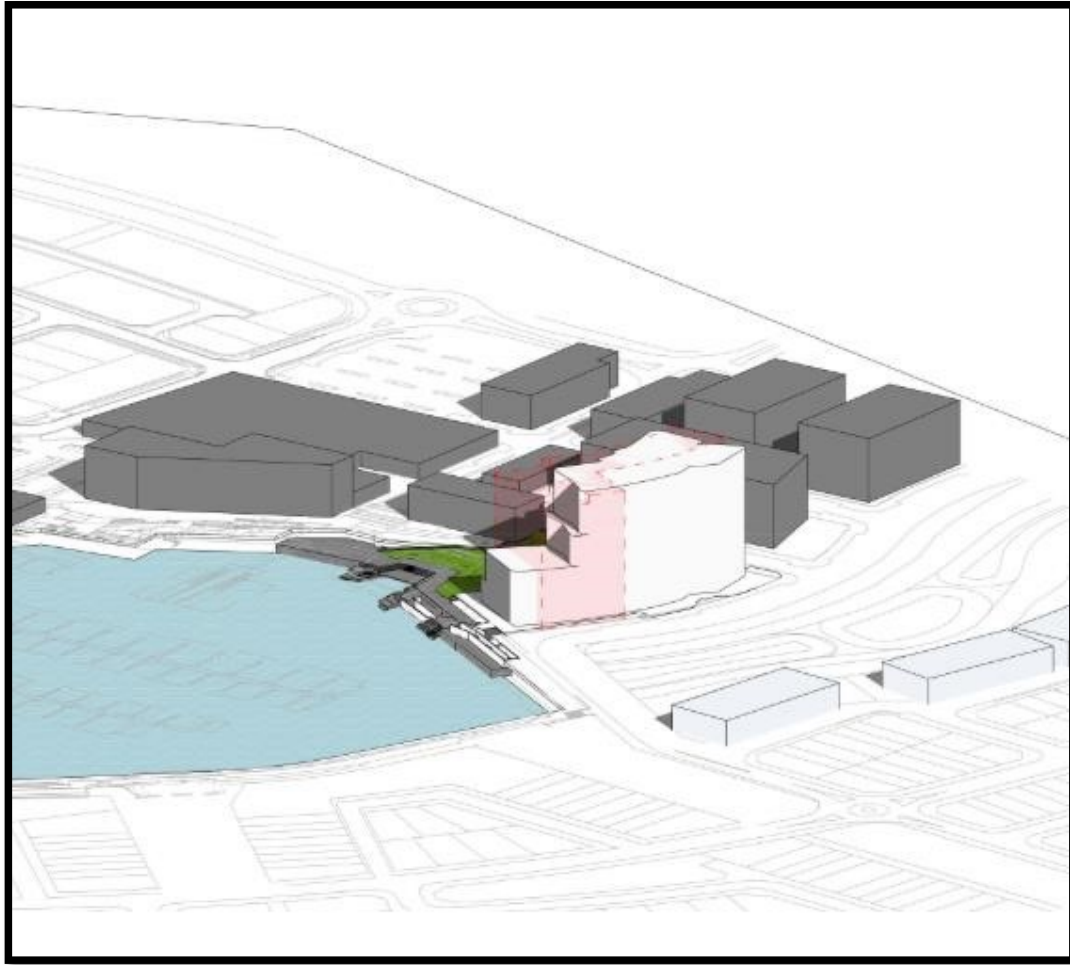


Figure 8 - roof plan

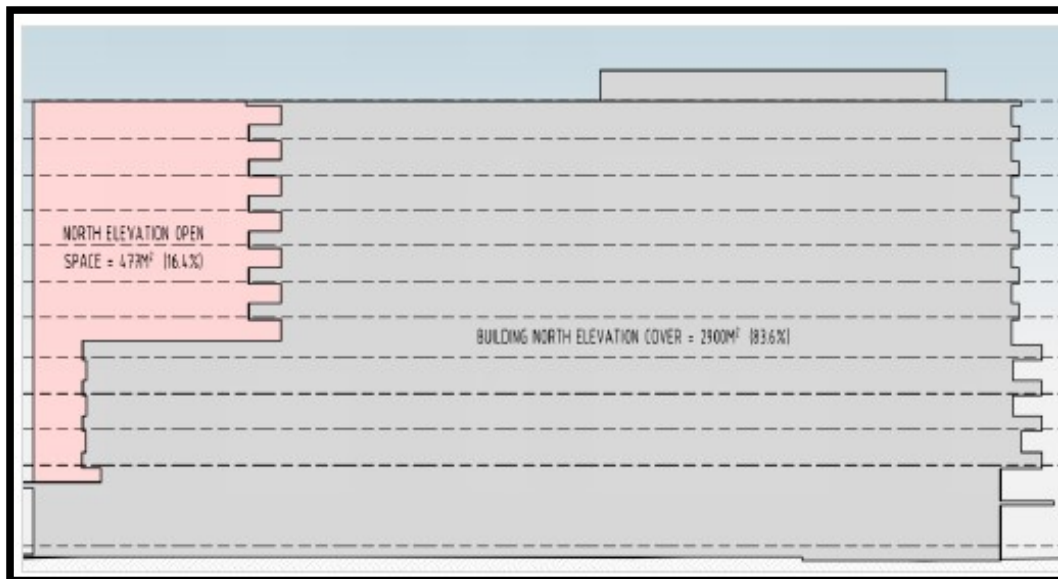
Council has worked with the applicant to reduce the bulk and scale of this plant area. The stairwell overrun has been removed and replaced with a hatch (as shown in **figure 8**). The potential to utilise a basement drive lift and therefore avoid the need for an overrun has been considered however the applicant has advised that is not recommended for facilities such as a hotel, which rely heavily on lift use.

The section of roof that will incorporate the plant equipment and screening is to the west of the site, away from the Marina. The surface area of the roof plant occupies approximately 14 % of the roof space- and is minor.

The design of the building steps back from the Marina/public boardwalk on the eastern side opening up the water views to the surrounding area. The overall development utilises approximately 83% of the horizontal building envelope identified in the Concept Approval and Design Guidelines relevant to the site. Approximately 16% of the bulk has been unused, with part of that bulk re-located to the roof to allow for the services required for the development. This re-location of bulk is identified in **figure 9 and 10**. Council is satisfied that this reduction in scale towards the Marina and public boardwalk is the preferred option and the offset of the roof plant equipment is acceptable.



**Figure 9** - 3D modelling to show comparison between proposed development and 'permitted' building envelope

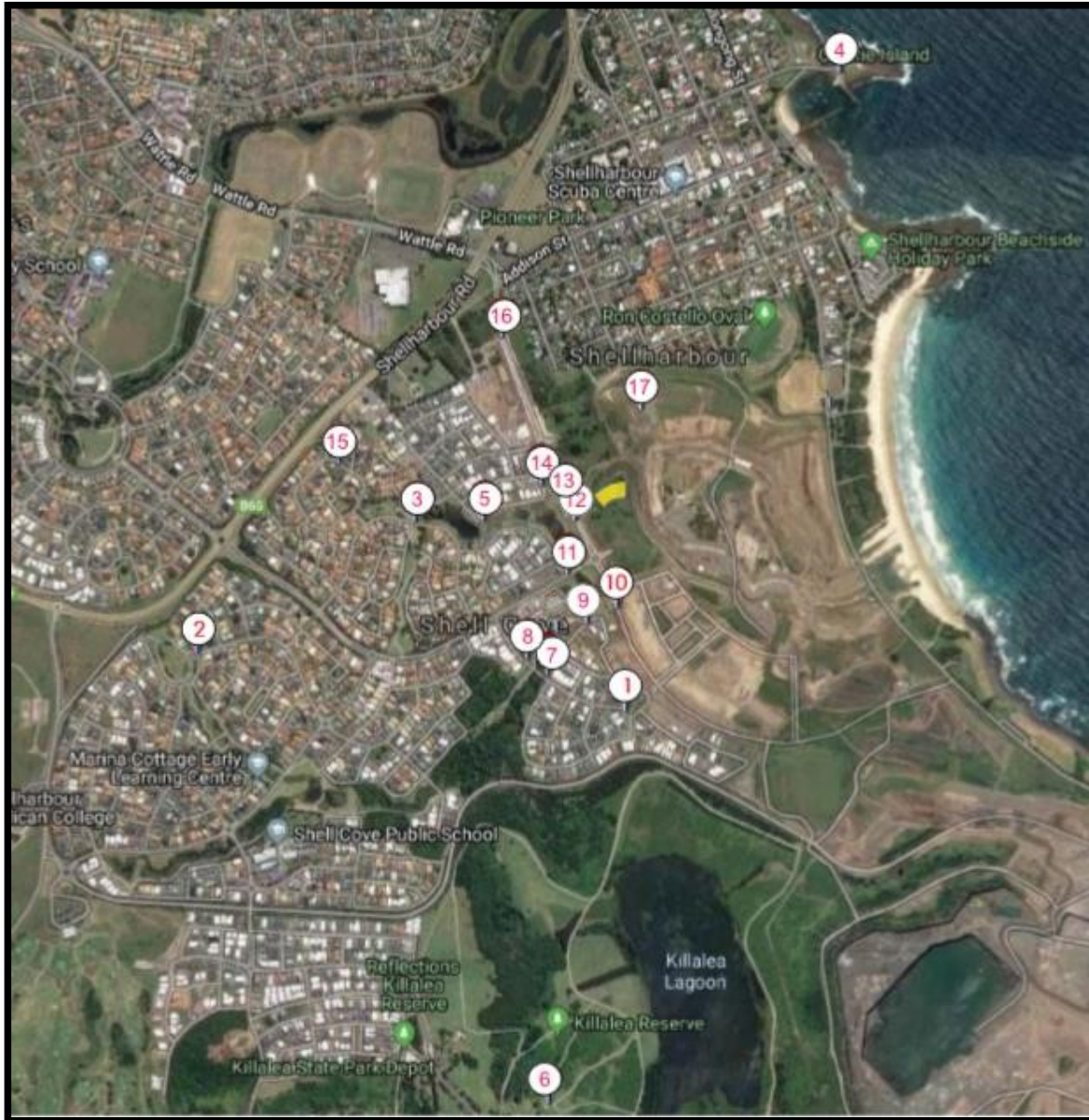


**Figure 10** – Indication of bulk difference between proposed development and 'permitted' building envelope

The Visual Impact Assessment (VIA) submitted provides analysis of the visual considerations of the building. A detailed discussion of the VIA is included in section 13 (i) of this report.

The VIA considers the impact of the building on views from the surrounding area utilising block model photomontages from key viewpoints. The block model includes the roof plant equipment and proposed screening giving an accurate understanding of the impact this part of the roof will have when viewed from the surrounds.

Block model photomontages from key viewpoints as detailed in **figure 11** are included below as **figure 12**, **figure 13**, and **figure 14**.



**Figure 11** – View Locations – application site marked in yellow



**Figure 12** - Block model photomontage from location 9 looking north from Red Sands Avenue



**Figure 13** - Block model photomontage from location 11 north-east view from the north end of Cove Boulevard.



**Figure 14** - Block model photomontage from location 17 view south from Brigentine Drive east terminus.

Council is satisfied that the photomontages demonstrate that the impact of the roof plant equipment and screening – which is subject to the non-compliance of building height - will be minimal.

**Figure 15** details 3D computer images of street views of the elevations. The roof top screening is not overly prominent or bulky from views within the immediate area.



**Figure 15** –3D street views

The additional height resulting from the roof plant equipment is a minor increase in the overall height of the allowable development. The provision of roof plant is a recognised necessity for such a development and the offset of the stepped design on the eastern elevation is preferable. As detailed in section 6 of this report the Shellharbour Design Review Advisory Panel advice supports this approach.

**Figure 16** is taken from version 33 of the Cox report which was approved as part of the Concept Approval (Mod 1). This figure shows the key views and vistas for the Shell Cove Concept Approval area.



**Figure 16** – Views and Vistas Concept Approval

The avenues, views and vistas will not be adversely affected by the additional plant on the roof of the proposed development.

Based on the above, the proposal is suitably consistent with the Concept Approval for the following reasons:

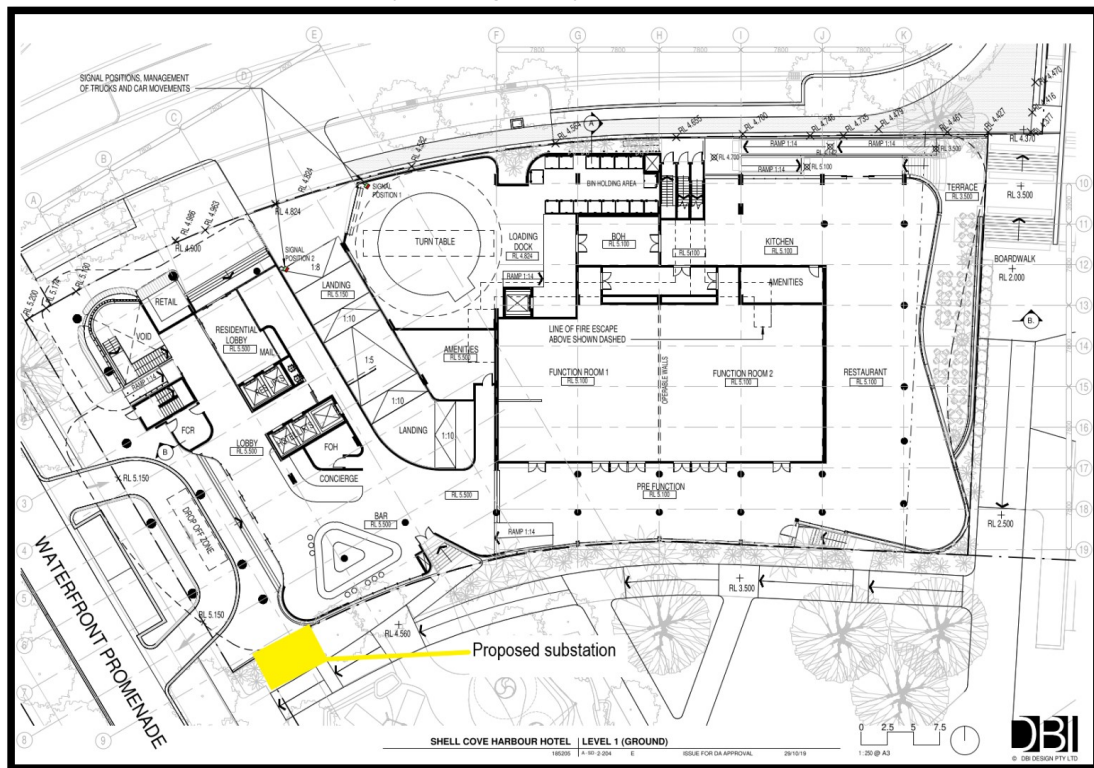
- the majority of the building is within the 11 storey, 40 metre height limit,
- the section exceeding the height limit is to provide necessary screening for equipment essential to the function of a building as proposed and does not increase overall gross floor area,
- the offset of having a taller, narrower tower over a wider, lower structure is preferable than complying strictly with the height limit, and

- d. the impact of the exceedance has been shown to be minimal on views from the surrounding area and has been supported within the visual impact assessment which is required as part of the concept approval.

In conclusion, the proposal is consistent with the Concept Approval and the height proposed is able to be supported.

#### iv. Impact on Public Open Space - Substation location

The proposed plans detail location of an electricity substation outside of the application site (**Figure 17**). It has been confirmed that the substation is to provide for the proposed development and potentially provide power for the future community building/library to the south.



**Figure 17** – proposed substation location

Suitable screening and landscaping will be provided around the substation to minimise the impact on the public open space. The substation will be located off the main pedestrian footpath and away from the future play equipment.

In addition to the main points discussed above, **Attachment 6** contains a compliance table reviewing this proposal against the Terms of Approval, Further Assessment Requirements and Statement of Commitments. Overall, the development is generally in compliance with the Concept Approval.

The proposed development includes one eleven (11) storey building. The proposed materials are consistent with the Design Guidelines for Precinct D and offer a contemporary interpretation of the coastal palette. The proposed materials and colours have been used to differentiate building elements and articulate the façade. The design's consistency with the Concept Approval is demonstrated within the Architectural Drawings included within **Attachment 2**.

## 5. Panel Briefing Comments

A Planning Panel (Southern) briefing meeting was held on 3 March 2020. The following key issues were discussed by the Panel and responded to accordingly:

### i. Building height – mechanism to address height breach for the lift overrun.

Addressed in section 4 (iii). Substantially compliant with Concept Approval. The exceedance is not more than 2.7% of the overall height and is only marginally visible from key visual vantage points.

### ii. Parking spaces – parking deficit, co-use parking and visitor parking access.

The proposal includes a 337 space (plus 4 motorcycle bays) basement car park. This equates to a 54-space car-parking shortfall in addition to a loss of four on street parking spaces as a result of the proposed vehicle access points for the development. The deficit is for the function centre use only, all residential and hotel associated spaces are provided.

The Traffic Impact Assessment submitted with the DA justifies the proposed shortfall in parking based on the operations of the function centre and the cross-utilisation of land uses within the development.

Council has engaged the services of an external Traffic Consultant (Bitzios Consulting) to provide an independent review of the car parking provision and operation at the proposed development. Bitzios also undertook a precinct wide parking study during the assessment for the Mixed Use Development (DA0385/2017) within Precinct D and provided detail for the street parking additions to the UDGs for Precinct D.

A parking rate comparison was undertaken of surrounding and other regional LGA parking rates. LGA's included were Wollongong, Kiama, Shoalhaven and Central Coast – Wyong.

The comparison showed that a similar scale development in these regions would, on average, require approximately 49 spaces less than within Shellharbour. It was also noted by Bitzios that the Shellharbour DCP has the most conservative parking rate for function centre type uses.

Bitzios also liaised with a number of existing hotel and function sites in the region to gain an understanding of typical function room demands and what proportion of guests are likely to stay within the hotel.

A summary of those findings was provided by Bitzios as follows:

- a. Demand followed typical seasonality trends with higher demands across the summer months and lower over winter.
- b. Weekend functions at some venues are typically booked all year round with lower demand through the week. Weddings and birthdays are typically weekend functions with corporate events through the week.
- c. Corporate events attract a higher number of guests than weddings.
- d. Corporate functions were noted as having 60-100% of function guests staying on site.
- e. Wedding/birthday events were noted as having a lower portion of guests stay on-site with approximately 20-60%.
- f. Weekend functions particularly have a low parking demand due to consumption of alcohol.

The findings from Bitzios concluded that as a significant portion of the function centre guests are expected to be staying on-site. Further, it noted the conservative nature of Shellharbour Council's DCP that required significantly more (higher) parking rates for function centres. It is not expected

that the shortfall in parking over the site will result in overflow to surrounding streets for the majority of the year. The exception may be during peak times (summer months) which is consistent with parking demands for most tourism and city centres.

Bitzios highlighted the need for a suitable Operation Plan for the basement parking area. This has been addressed in section 13 (iv) of this report.

Given the extensive assessment carried out regarding the parking deficit and the conclusions reached, Council considers that this deficit does not impact on the surrounding public parking within the Shell Cove Town Centre subject to a suitable Traffic Management Plan (TMP). The TMP will ensure minimal conflicts occur between the complimentary and contrasting user demands on parking across the site.

Management of access to the basement parking areas is suitably controlled by recommended conditions included in **Attachment 1** relating to intercom, management of parking areas, automated signalling system for loading dock/basement access.

**iii. Interface between public space and hotel identified as important part of development.**

Addressed in section 13 (ii) of this report. The proposed interface is sympathetically designed to accommodate the site constraints and the impact on the adjoining public open space areas. The utilisation of public and private landscaping to soften the built form is an acceptable outcome given the development of Precinct D as a whole has been considered in its entirety under the Concept Approval.

**iv. Separation of private apartments/areas with public ones.**

Suitable plan of management conditions recommended in **Attachment 1** will ensure the different uses within the development can operate together successfully. It is considered that this is a reasonable approach given the mixed-use intent of the development as required by the Concept Approval.

**v. Appropriateness of the public access 'walkthrough' areas within the hotel space. Ensure residential entrance is separate.**

Given the four different frontages the building has to respond to, the layout of the ground floor is considered to balance the mixed uses of the development in such a way to ensure a successful interface between the street, Public Park and public boardwalk and the different uses within the building.

Importantly, the residential entrance is separate to the hotel entrance, food and drink premises access. The only shared element is the ramped access into the building, however this is not an issue as internal doors will prevent access for non-residents into the permanent apartments. Details shown in **figure 18** below.

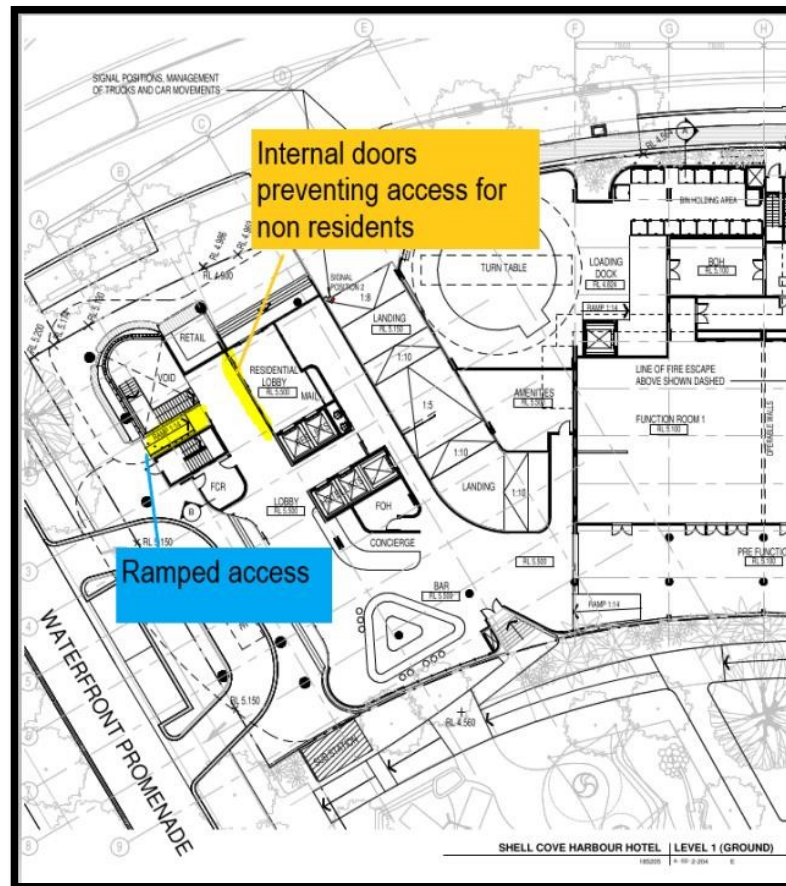


Figure 18 - Ramped access

**vi. Visual Impact assessment required.**

Visual Impact Assessment provided in accordance with the Concept Approval. Discussion of assessment included in section 13 (i) of this report. The submitted VIA concludes that the proposed development will result in minor impacts as based on the planning principle from the *Tenacity Consulting v Warringah Council [2004] NSWLEC 140* case. View loss would be minor to moderate in some of the closest views.

However the VIA maintains that as the development of Precinct D progresses, in accordance with the Concept Approval, the extent of the visual effects and view loss generated by the proposed development is likely to drop to minor for all views.

In this regard, the level of view loss is reasonable given the intent of the Concept Approval. The impact is seen as appropriate.

**vii. Tolerances between the different uses, especially between residents and tourist facilities.**

A satisfactory noise impact assessment has been submitted and reviewed for this development. The outcomes are discussed in section 13 (iii) of this report.

Suitable operational plan of management has been requested by condition to ensure that the diversity of uses within the development can operate in conjunction with each other.

It is noted that the uses proposed are in compliance with the Concept Approval and future residents will be aware of the variety of uses within the development prior to purchase.

**viii. Operational Management Plan – permanent occupancy of serviced apartments.**

Applicant has stated they support the provision of a Plan of Management to be provided by way of condition. Condition recommended in **Attachment 1** of this report.

A restriction on title has also been recommended by condition to ensure that the tourist and visitor accommodation lease period, including the serviced apartments, does not exceed any period of 21 consecutive days or more.

**ix. Acoustic report needs to consider the different uses between residential and hotel guests.**

Suitable noise assessment has been submitted and reviewed by Council. The detailed assessment has been included in section 13 (iii) of this report.

Continued monitoring is recommended by a condition as per the approach taken with the Tavern development also within Precinct D (DA0005/2017).

**x. Parking and separation between residential, hotel guests and visitors to the residential apartments,**

Suitable condition recommended as part of **Attachment 1** condition 33 as follows:

**33. Car Parking Management Plan**

*Prior to issue of a Construction Certificate, a Car Parking Management Plan is required to be submitted to the Principal Certifier for approval. The Plan must include, but is not restricted to, the following:*

- a. To restrict general public access at the street entrance to the basement parking area;
  - i. details of the provision of physical separation (such as boom gates or roller doors)*
  - ii. details of the electronic management system proposed to manage access for residential tenants, residential visitors, staff and other bona fide visitors to the site*
  - iii. details demonstrating how a vehicle that is restricted is able to safely turn around and exit (based on a B99 vehicle).**
- b. To restrict staff and visitor access to residential parking areas within the basement car park;
  - i. details of the internal physical separation (such as boom gates or roller doors) for the 63 residential parking spaces*
  - ii. details of the electronic management system proposed to manage access for residential tenants*
  - iii. details demonstrating how a vehicle that is restricted is able to safely turn around and exit (based on a B99 vehicle).**
- c. Details of the processes proposed to manage parking allocation of the visitor and staff car spaces;
  - i. that as a minimum guarantees the ability to service a minimum of 21 residential visitor car spaces at all times.*
  - ii. that maximises car park utilisation and minimises on-street parking*
  - iii. that does not provide visitors with access when the visitor parking allocation is full.**
- d. The location and layout of any controls and associated devices in the car park must be designed in accordance with AS 1428 and AS/NZS 2890.1 - 2004 Parking facilities Part 1: Off-street car parking (or subsequent amendments) and with regard to queuing and access to nearby car parking spaces.*

**xi. Function centre parking – how has this been addressed?**

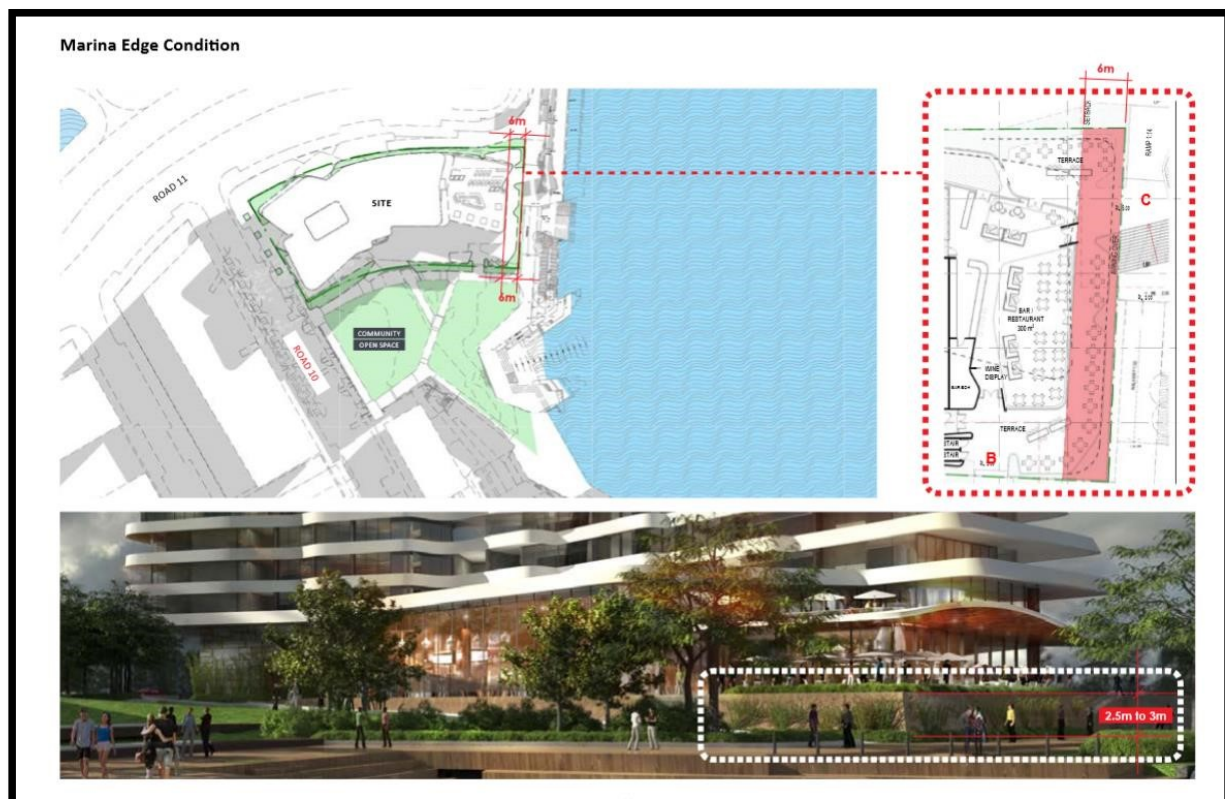
As above in point ii and in section 13 (iv) of this report.

## 6. Shellharbour Design Review Advisory Panel

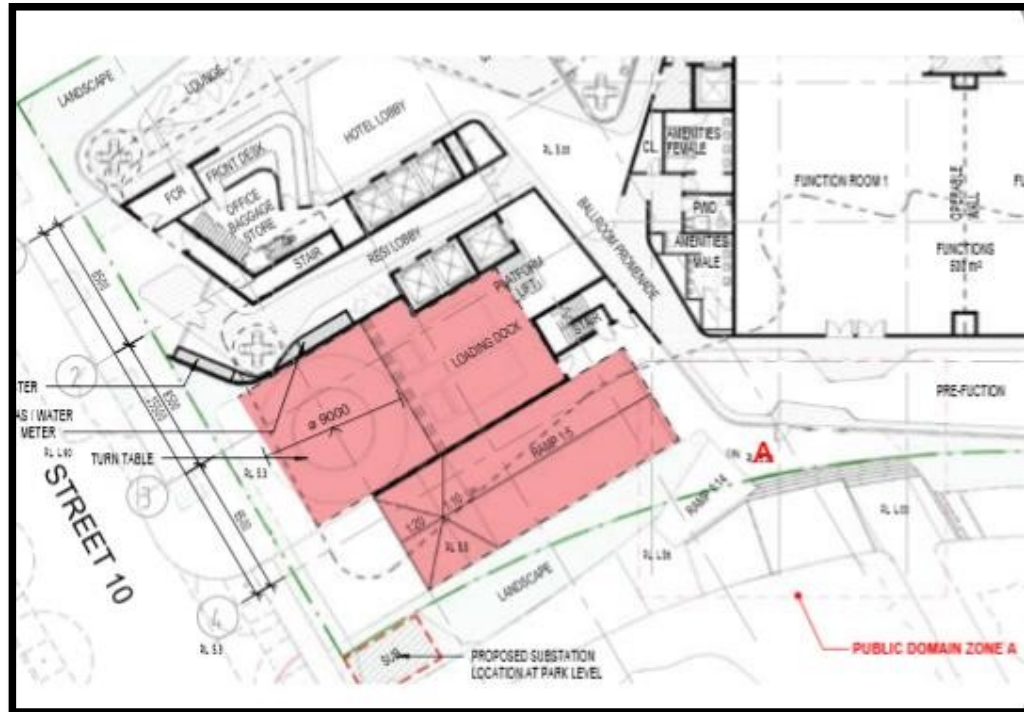
In line with the Shellharbour Design Review Advisory Panel Policy and Part 3 of *State Environmental Planning Policy 65 (Design Quality of Residential Apartment Development)* the development has been considered by the Shellharbour Design Review Advisory Panel (DRP).

This development has been considered by the DRP at two different times at pre lodgement stage. The significant differences between these original drafts and the current proposal are listed below. The original pre lodgement design proposed:

- i. A mezzanine floor between ground and first,
- ii. Provision of 236 parking spaces over three basement levels,
- iii. Loading dock and basement access on South West corner of site, adjacent to Public Park (shown in **figure 20**),
- iv. Hotel pedestrian access on Northern elevation of site,
- v. Residential pedestrian access on western elevation of site via a narrow corridor,
- vi. No communal open space provided for residents,
- vii. Significant ADG non-compliances for majority of residential apartments,
- viii. Interface between public areas on eastern and southern elevation included a 2.5-metre high + retaining wall (shown in **figure 19**).



**Figure 19** - Public interface on Southern and Eastern elevation

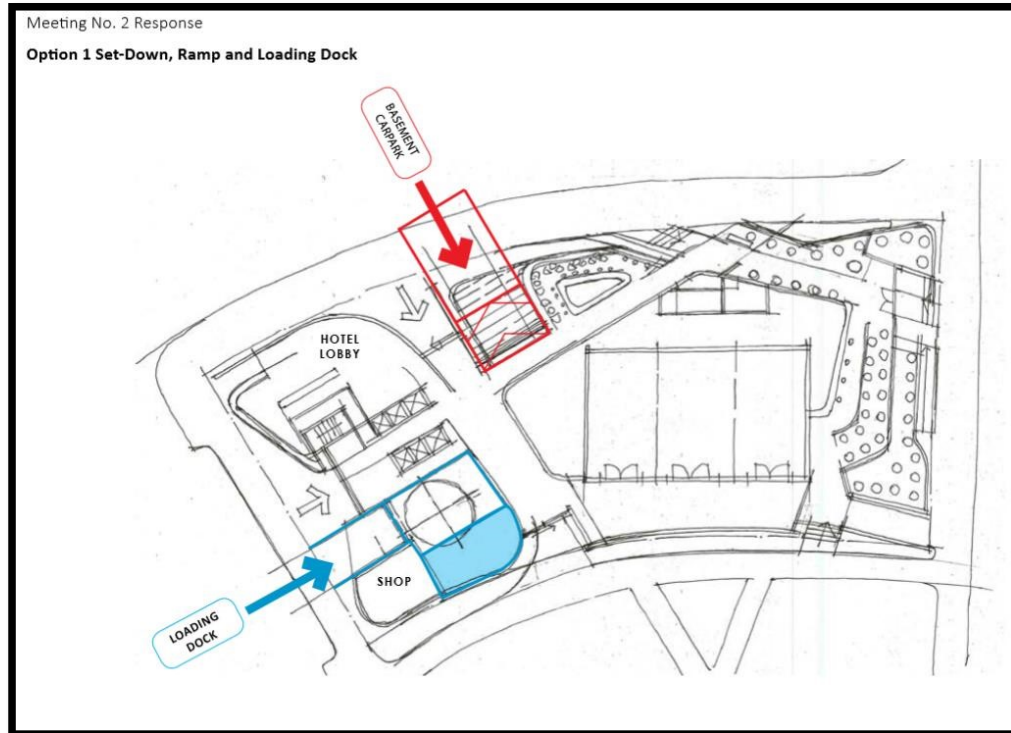


**Figure 20** – Initial location of loading dock and basement car park access

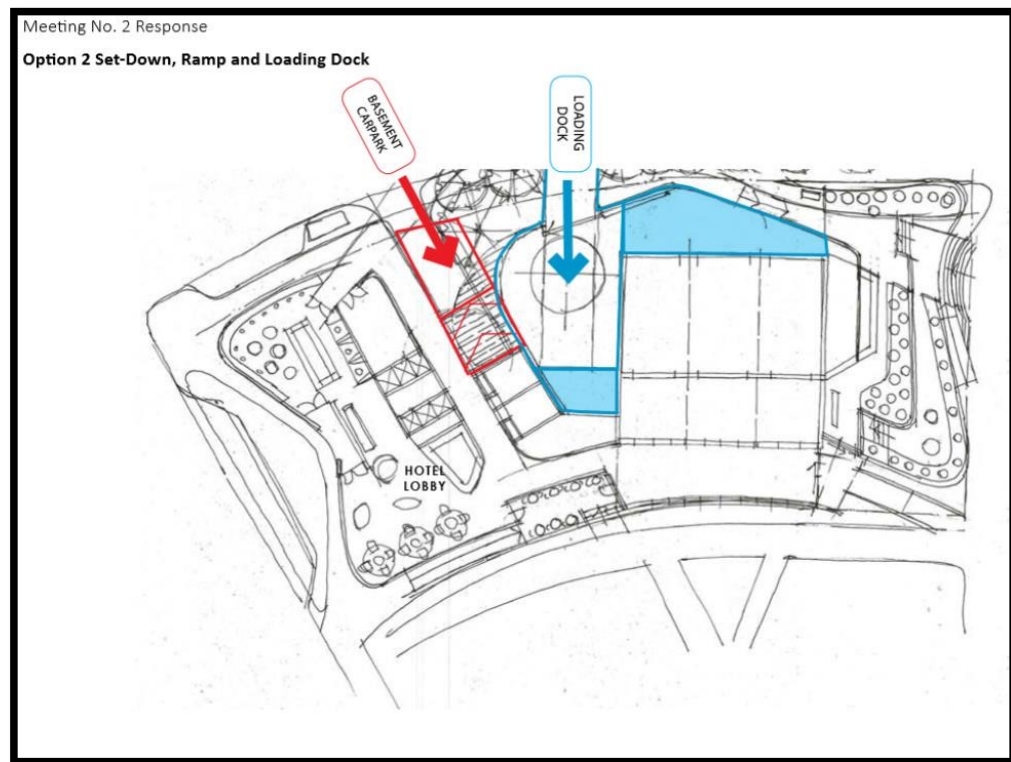
The advice received from the initial pre-lodgement meeting focussed on;

- i. The bulk, form of tower placement (no elevations were provided at this initial stage),
- ii. The building's interface with the public domain was not considered acceptable and impact of such a high retaining wall the entire length of the site boundary with the public boardwalk was not considered acceptable,
- iii. ADG compliance, including provision of communal open space for residents needed to be improved and provided,
- iv. Location of dock/car park entry was not considered a suitable place, particularly the treatment between the ramp for basement parking and the Public Park,
- v. Location of the substation was not supported by the Panel due to being so highly visible within the main street (Waterfront Parade) and the Public Park to the south.

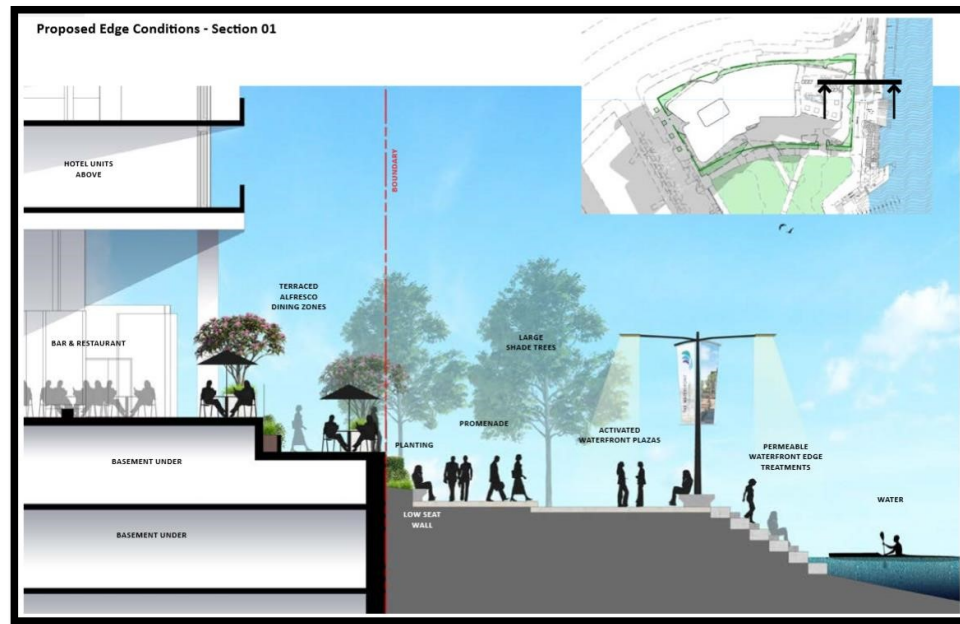
Following the initial advice, the second meeting focussed on the ground floor layout and the interface between the site and the public areas. Options were provided to the DRP (included in **Figures 21, 22 and 23**) and the merits of each option discussed in the advice provided.



**Figure 21** – DRP option 1 ground floor layout focussing on access



**Figure 22** – DRP option 2 ground floor layout focussing on access



**Figure 23** – Alternative public interface treatment

The proposed plans subject of this DA were put before the Chair of the DRP for comment. Advice provided and Council comment is included in **table 2** below.

<b>Table 2</b>	
<b>DRP Comment</b>	<b>Council Comment</b>
The building appears to penetrate the height limit with lift over runs and areas of plant exceeding 40 meters. If it can be demonstrated that the plant room is not visible from the surrounding streets and that these elements are finished with recessive colours to allow them to be integrated into the roof-scape if viewed from a distance, the panel has no objection to these point encroachments of the height control.	Consideration of the location and height of the roof plant has been undertaken with the advice from DRP considered. Council is satisfied that the impact of the roof plant on views from the surrounding area will be minimal as discussed in section 4 (iii) of this report.
Detail refinement of the proposal's interface with the public domain.	Detail has been provided by the applicant regarding ownership of landscaping areas and retaining wall structures. The concern with the interface with the public domain has been satisfied.
Refinements to improve accessibility - Development of cross-site link.	When considered in the context of the wider public area (to the east and south) Council is suitably satisfied that appropriate accessible ramps have been provided to all parts of the site.
Further development to achieve minimum ADG solar access requirements.	Whilst a non-compliance regarding solar access is proposed, suitable justification has been provided to satisfy Council that the variation is acceptable. Detailed discussion of this variation is included in section 8.v.a of this report.

Table 2	
DRP Comment	Council Comment
Detail information to demonstrate ADG compliance for room sizes, balcony sizes and storage.	Provided by applicant.
Improve communal open space offering to meet the objectives of the ADG.	Consideration of the COS provided for residents has been undertaken and the benefits of 'sharing' part of the COS with hotel guests is acceptable subject to suitable management. Future residents will have a private area of COS as well as benefitting from the hotel facilities. The areas provided exceed the ADG requirements in regards to size and amenity.
Street sections and elevation, documenting the spatial quality of the street and the proposal's relationship with its western neighbour.	The western residential lot is currently vacant with no proposal currently under consideration by Council. The Concept Approval, however, does provide suitable setbacks, height, number of storeys and land use, giving Council a suitable understanding of the concept of development on this site. It is considered that the relationship will be acceptable.
Development of an appropriate, coastal aesthetic.	Suitable materials, colours and finishes have since been provided by the applicant which reasonably reflect the coastal aesthetic of the site.

The advice provided from the DRP throughout the DA process and at pre-lodgement stage has significantly shaped the design of the development. The applicant has suitably addressed the comments raised by the DRP and this has subsequently led to a more successful design.

## 7. Section 4.15 Environmental Planning & Assessment Act 1979

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

### 8. Section 4.15 (1) (a)(i) - environmental planning instruments

#### i. State Environmental Planning Policy (State and Regional Development) 2011

Schedule 7 Regionally significant development

(3) Council related development over \$5 million.

Development that has a capital investment value of more than \$5 million if:

- (a) A Council for the area in which the development is to be carried out is the applicant for development consent, or
- (b) The Council is the owner of any land on which the development is to be carried out, or
- (c) The development is to be carried out by the council, or
- (d) The council is a party to any agreement or arrangement relating to the development (other than any agreement or arrangement entered into under the Act or for the purpose of the payment or contributions by a person other than the council).

The proposal has a construction value of \$74,355,724 and is on land owned by Council. The area is also part of the Shell Cove Project as a collaboration between Shellharbour City Council and the developer, Frasers Property Australia. Therefore, the development is classed as regionally significant Under Part 4, Division 4.2, Section 4.5 (b) of the *Environmental Planning and Assessment Act 1979* the Regional Planning Panel for the area (Southern) is designated as the consent authority.

ii. State Environmental Planning Policy Coastal Management 2018

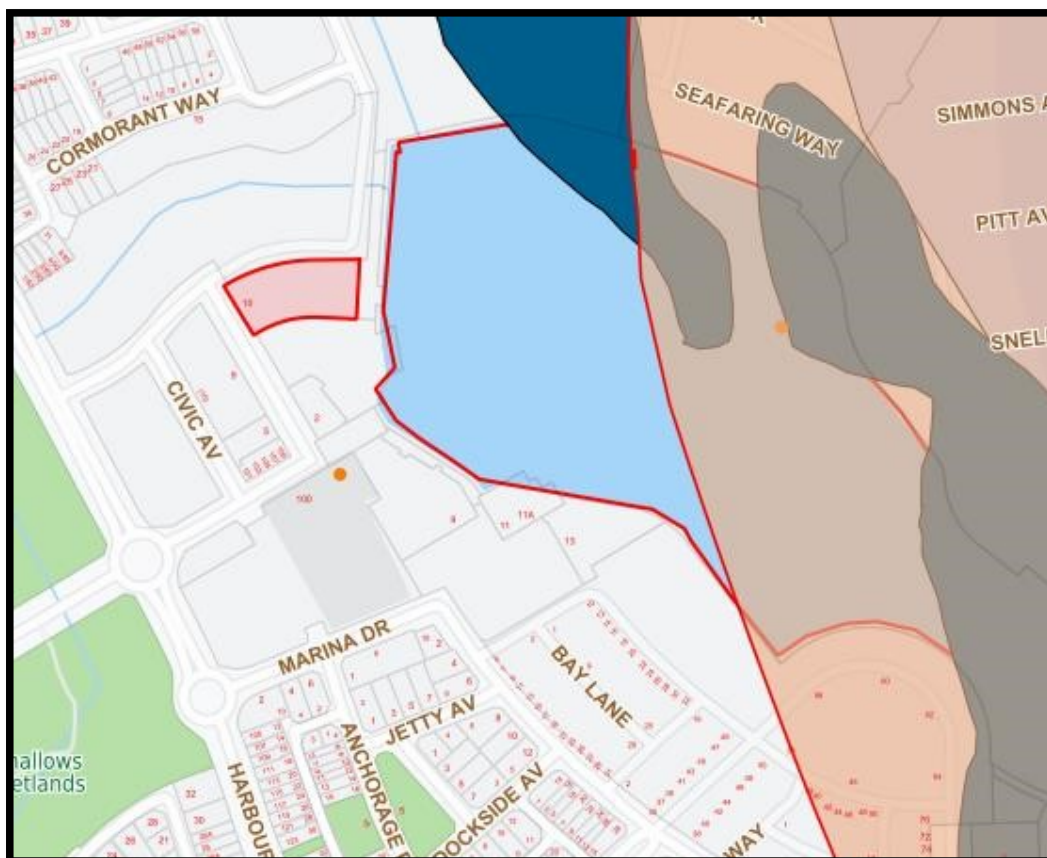
The aim of this Policy is to promote an integrated and coordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016, including the management objectives for each coastal management area, by:

- a) managing development in the coastal zone and protecting the environmental assets of the coast, and
- (b) establishing a framework for land use planning to guide decision-making in the coastal zone, and
- (c) mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the Coastal Management Act 2016.

Section 5 of the Coastal Management Act 2016 provides that the coastal zone means the area of land comprised of the following coastal management areas—

- (a) the coastal wetlands and littoral rainforests area,
- (b) the coastal vulnerability area,
- (c) the coastal environment area,
- (d) the coastal use area.

The application site is not included in the coastal use area as shown in **Figure 24**.



**Figure 24** - Coastal Use Area Map – Coastal Use Area shown in peach

iii. State Environmental Planning Policy No. 55 – Remediation of Land

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

standards and notification requirements. The policy states that land must not be developed if it is unsuitable for a proposed use because it is contaminated.

Clause 7 of SEPP 55 requires a consent authority to consider whether the land is contaminated and if it is contaminated it is satisfied that the land is suitable in its contaminated state for the purpose for which the development is proposed to be carried out.

The former Council Landfill on the Shell Cove site (3.7 ha) was remediated in 2009 and the Site Audit Statement by Environ (03/11/2009) confirmed that the remediation was successful and the land is suitable for low to medium residential use.

Douglas Partners (2016) conducted a Targeted Site Investigation (TSI) covering Precinct D. Based on the results of the TSI, it is considered that the site is compatible with the proposed residential development.

Council has considered whether the land is contaminated as detailed and is satisfied that the land has no contamination issues and the proposed use is suitable on this site. As a precaution an unexpected finds protocol condition has been included in the recommended conditions in **Attachment 1** in accordance with the TSI report recommendations.

iv. State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX Certificate has been issued for the relevant sections of the development and relevant conditions requiring the fulfilment of commitments have been recommended, and in this regard, the aims of the Policy have been satisfied. Suitable conditions recommended to ensure compliance.

v. State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development

The proposal has been assessed against the nine principles and the Apartment Design Guidelines (ADGs) as detailed in the compliance table included as **Attachment 7**.

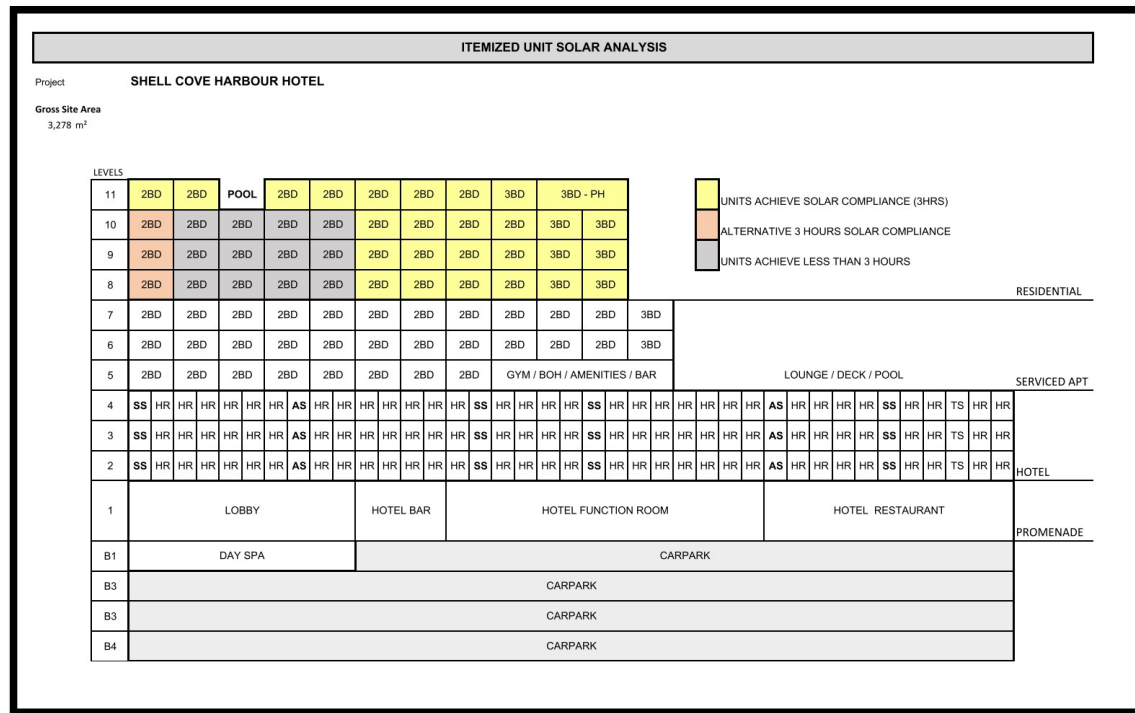
The proposal includes three non-compliances to the ADG's and is further detailed below;

**Objective 4.1A (2)** requires that living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid winter.

Direct solar access is achieved for a minimum of three hours to the living rooms and private open spaces of 27/42 apartment (64%) between 9am – 3pm on 21 June, the ADG requirement is 70% of apartments.

**Objective 4.1A (3)** requires that a maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.

Twelve (12) of the 42 permanent residential (29%) apartments will not receive any direct solar access between the hours of 9am-3pm mid-winter. An itemised apartment solar analysis has been provided and included as **figure 25**. The alternate 3 hours solar compliance referred to is between 1.30pm and 4.30pm mid-winter.



**Figure 25 – Solar analysis**

The apartments that will receive less than three hours of solar access are sited on the southern elevation of the development, shown in the floor plans included as **figure 26**

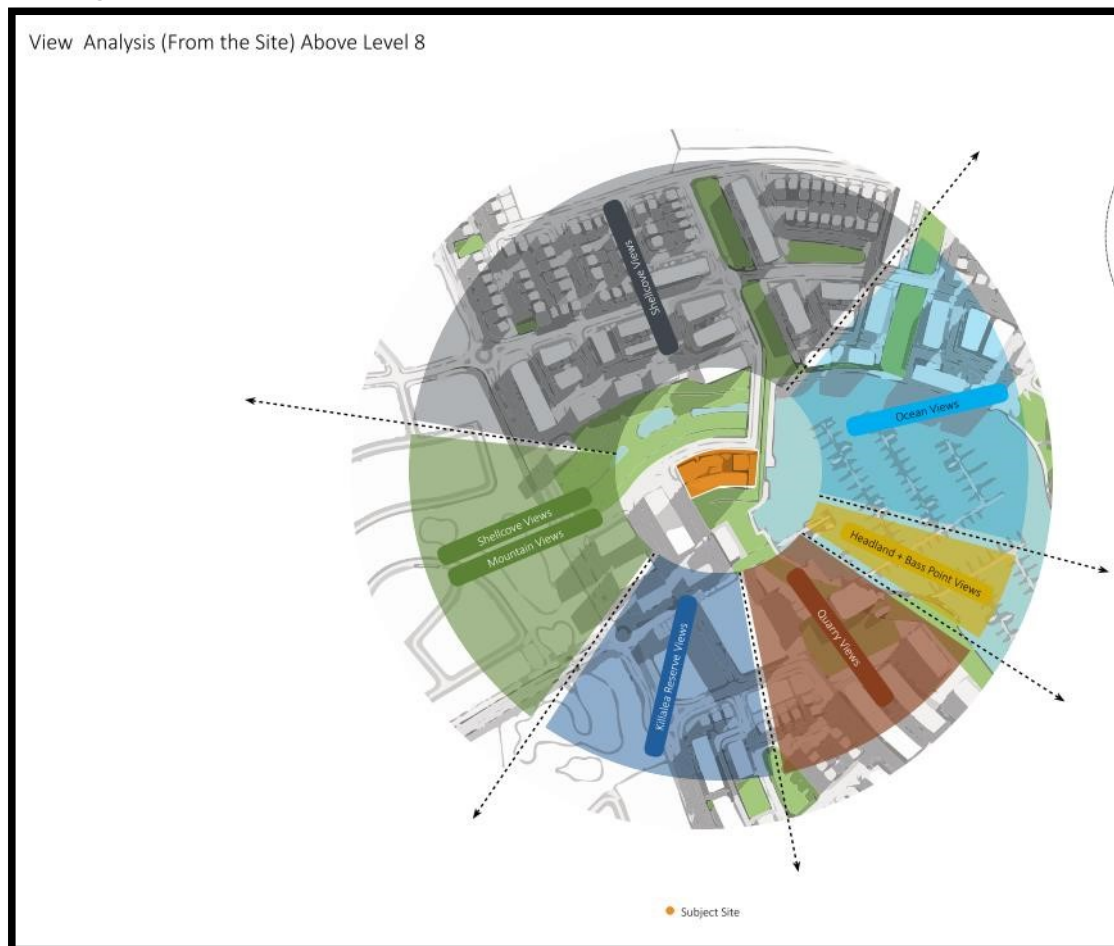


**Figure 26 - apartments that achieve less than 3 hours of direct solar access**

This level of solar access is acceptable for the following reasons:

- The living areas are located on the external face of the development to maximise daylight access and views over the Shell Cove Town Centre Park and Town Centre Precinct D to the south and west. The apartment layouts are functional and well organised to provide a high level of internal comfort.
- High levels of controlled daylight are provided directly through generously sized windows and glass doors.
- The orientation of the site means that whilst the apartments on the west fall outside of the 9am-3pm window they still receive afternoon sun. Between 1.30pm and 4.30pm on June 21 an additional 3 apartments (total of 71%) will receive a minimum of 3 hours solar access. These apartments will be on level 8 and above and will be higher than the RFB's indicated for the lots to the west of the development as in the Concept Approval.

The south facing apartments will be orientated with views over the Town Centre Public Park and Town Centre. The ADGs outline that achieving the design criteria may not be possible where significant views are oriented away from the desired aspect for direct sunlight. The site's shape, orientation, context and access to high quality vista have informed the siting and orientation of the built form, a view analysis is included in **figure 27**.



**Figure 27** – view analysis from level 8 and above.

a) Objective 3E 1 -Deep Soil Zone

Deep soil zones required for a site area greater than 1,500 m<sup>2</sup> are a minimum dimension of 6 metres for 7% of the site. This results in a 105 m<sup>2</sup> requirement taking into account the percentage of the site area that is allocated to residential apartments.

The ADGs acknowledge that achieving the design criteria may not be possible on some sites including where;

- *“The location and building typology have limited or no space for deep soil at ground level (e.g. central business district, constrained sites, high density areas, or in centres)*
- *There is 100% site coverage or non-residential uses at ground floor level”*

Council is satisfied that the ground floor of the proposed development is suitably non-residential (notwithstanding the residential entrance) to satisfy the guidance included in the ADGs, as above. In addition, the location of the site can reasonably be described as being within a centre, with adequate deep soil areas to the south, within the public park and to the north, within the wetlands area.

The Concept Approval allows built form up to the boundaries of the site with suitable deep soil zones provided in the public park to the south and wetlands to the north.

The Residential component is located on level 8 and above lends itself to the proposed design with a private pool and suitable landscaping supplementing the deep soil zone. Council is satisfied that future residents would reasonably expect alternative standard of living amenity in a mixed-use development. The proposed facilities and associated landscaping provided is a suitable alternative.

#### b) Objective 3D-1-Communal Open Space

An adequate area of communal open space is required to enhance residential amenity and to provide opportunities for landscaping. Design criteria requires Communal Open Space to have a minimum area equal to 25% of the site and a minimum of 2 hours direct sunlight between 9am and 3pm on 21 June.

Communal open space provided across the development is split into three distinct areas:

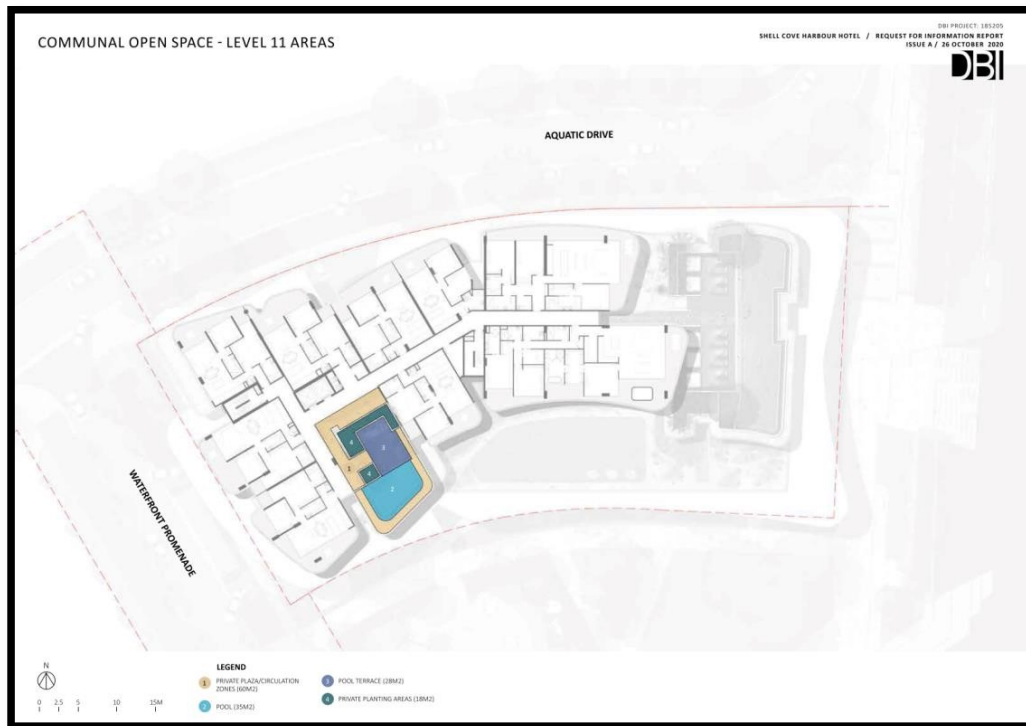
- Level 2 open space – 340 m<sup>2</sup> reserved for hotel guests only (**figure 28**),
- Level 5 open space – 716 m<sup>2</sup> area shared with hotel guests and residents (**figure 29**),
- Level 11 open space and common room area – 177 m<sup>2</sup> levels 10 and 11 – residents use only (**figure 30**).



Figure 28 - Communal Open Space level 2



Figure 29 - outdoor communal open space areas level 5



**Figure 30** - Outdoor communal open space level 11

The total area for communal open space is 893 m<sup>2</sup> (27% of site area). The provision of 'shared' open space is acceptable given the facilities provided (gym, lounge, pool and bar). The mixed-use nature of the development is recognised as a benefit and a burden to the future residents. It is reasonable to assume some element of responsibility for future residents to be aware that a section of the communal open space is shared with hotel guests. A suitable plan of management for the operation of this space has been required by condition as recommended in **Attachment 1**.

Future residents will have a choice of utilising the COS shared with hotel guests or the private COS located on levels 10 and 11. Both these areas will have minimum dimensions of 3 metres, is consolidated into well designed and reasonably identifiable areas and have direct and equitable access from common circulation areas.

More than 50% of the COS on level 5 will receive the required direct solar access. The COS on levels 10 and 11 will not achieve this requirement, however the pool and seating area on level 11 will benefit from views over Shell Cove and to the ocean beyond.

Council considers that the facilities provided and the area of COS provided is suitable for the proposed development. The objectives of the ADGs are achieved.

#### *a) Principle 1: Context and Neighbourhood Character*

The context for the proposal is a master planned urban area identified as Shell Cove Urban Release Area. The site is surrounded by roads on two sides, with the Shell Cove Marina to the east and a public park to the south. The superlots to the west of the application site are yet to be developed. The Concept Approval highlights these lots as apartments with a maximum height of 22 metres and six storeys. The development is seen as a key development within the Shell Cove area with the stepped design adding architectural interest to the Precinct as a whole.

The contextual benefits for residents including views of the Marina/Ocean area and public boardwalk area around the Marina, views onto the public park and wetlands and beyond to the Killalea State Park will outweigh any potential conflicts relating to strict non-compliances with the ADGs.

*b) Principle 2: Built Form and Scale*

The built form will provide for apartments that meet the needs of residents in this location, without negatively impacting on the surrounding locality. In addition, the built form is capable of responding to the coastal setting of the area. The height and density of the development is compliant with the Concept Plan with a maximum of 11 storeys. The design minimises the potential bulk of such a high building with a step back of the building, creation of recesses and screening devices and roof terraces and creation of a tower. This is the first reference to “a tower”

The proposal has benefited from a rigorous assessment process, including pre-lodgement and post lodgement advice from the Design Review Advisory Panel. This process has significantly shaped the design of the development and has led to a more successful design.

*c) Principle 3: Density*

The density proposed includes a mix of apartment types with 2 or 3 bedrooms with suitable facilities. The dwelling yield proposed complies with the maximum limit for Precinct D and the mix within the building as outlined within the Concept Approval.

The development breaks down into

- 70% hotel use
- 30 % residential use.

Of the 42 apartments, it is noted in the supporting information that 5 apartments (11%) are proposed to be designed in accordance with *Australian Standard 4299-1995 Adaptable housing*, these apartments and an additional 5 (11%) of the total apartments also incorporate the Liveable Housing Design (LHD) Guidelines silver level universal design features.

SEPP 65, Part 4Q requires 20% of apartments to meet Silver level LHD Guidelines. These guidelines require apartments to meet performance statements for the following categories:

- Dwelling access,
- Dwelling entrance,
- Internal doors and corridors,
- Toilet,
- Shower,
- Reinforcement of bathroom and toilet walls, and
- Internal stairways.

The nominated 10 apartments are required to meet the Silver level LHD Guidelines as required by condition 77 (below) included in **Attachment 1**.

***77.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 ten (10) of the residential apartments have been constructed to meet the performance requirements of Silver Level Liveable Housing Design Guidelines (or updated standards).*

#### d) Principle 4: Sustainability

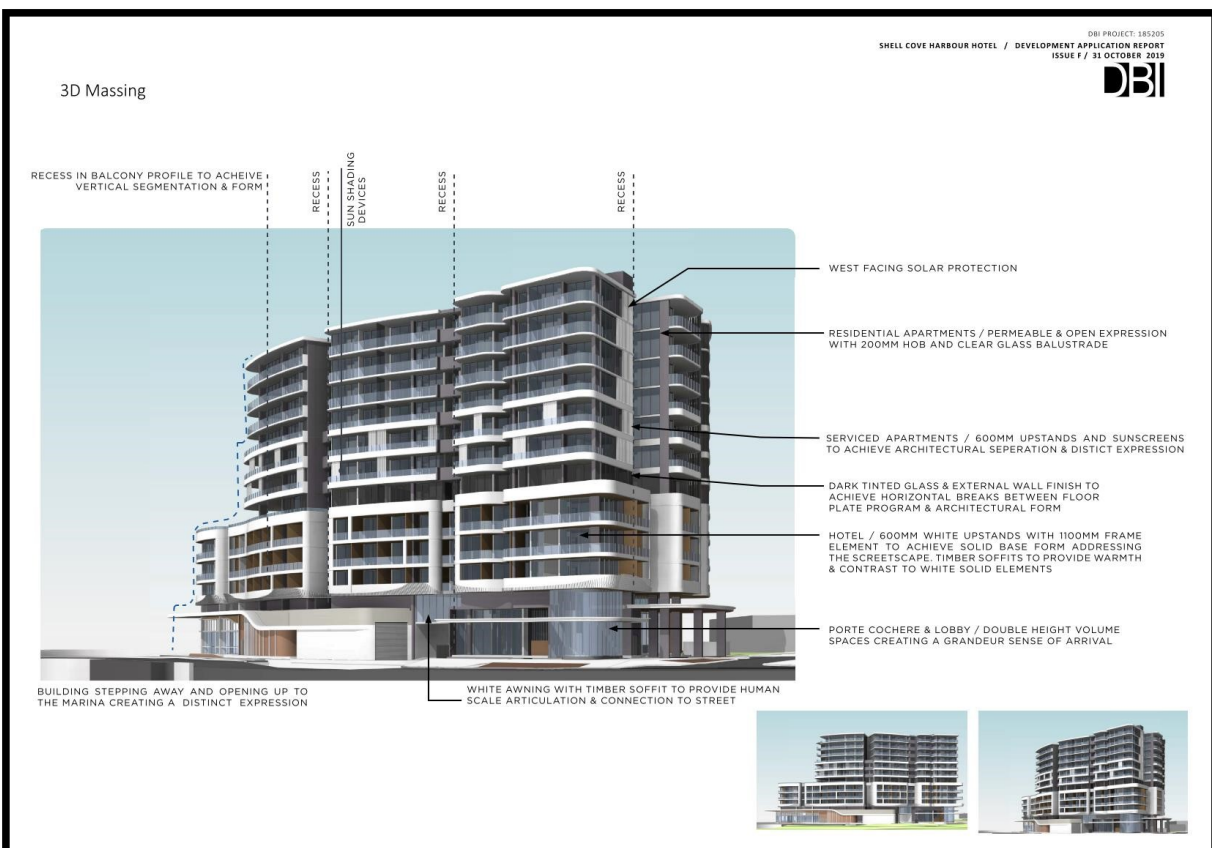
The provision of 42 apartments on the site is consistent with the Concept Approval, leaving a maximum of 163 dwellings for development within the remaining lots of Precinct D, as shown in **Figure 6**.

The apartments have been designed having regard to thermal performance, provision of reasonable amenity to occupants and therefore an efficient use of energy supply. The provision of sun screening devices and compliance with cross ventilation requirements will minimise use of air conditioning.

The design and orientation of the apartments will maximise access to natural light and views across the Shell Cove locality.

The BASIX and NatHERS assessments detail that the development will achieve the required water targets and thermal comfort. The energy usage of the proposed apartments exceeds BASIX limit of 30%, this level is calculated on the efficiency of fixed appliances that will be used.

All apartments also have solar control such as overhangs, balconies and screening to provide shading in summer (**figure 31** below). Landscape spaces throughout the development have been designed to maximise solar access, watering and plant management.



**Figure 31** – Details of sunshades and materials

#### e) Principle 5: Landscape

The landscape design provides for a variety of uses for residents to enjoy the COS areas, swimming pool, shade structures and paved areas. The non –compliance of deep soil zones has been considered and accepted as satisfactory as discussed in section 8 (v) (b) above.

The COS roof top terrace located on Level 5 will be available for all residents to use and will include a gym, lounge area, swimming pool and bar, with raised planter beds including suitable planting. Whilst these areas do not include any deep soil area it is noted that residents can access the wider development and public domain provided in Shell Cove development. This includes public open space within the Town Centre Public Park to the south and the public boardwalk running along the east of the site, which provides a walking trail around the whole of the Marina edge. In this context the residents will generally be reliant upon the COS located in this development and supplement this with the wider public domain context for their exercise and enjoyment which overall will provide a high level of amenity.

*f) Principle 6: Amenity*

The wider context of Shell Cove includes a range of opportunities for connectivity to desired services and amenities. This will be successfully combined with the size and scale of secure and accessible COS provided within the site to provide suitable amenity for future residents.

The proposed apartments are open plan design with appropriate room dimensions. Solar access to the apartments is satisfactory (see discussion in section 8(v)(a) above) and cross ventilation achieves the required levels.

Residential parking is secure and all provided within the basement parking areas. Bulky storage provision is included in the basement parking areas with secure cages for each apartment provided. In addition to this, each apartment will have compliant internal storage.

*g) Principle 7: Safety*

The pedestrian residential entry points are clearly defined from the public domain and include secure glass sliding doors facing the street which allows for passive surveillance. Vehicle access is separate to the pedestrian entrances provided and access to all COS will be restricted from general public access. Secure access to building entries, carpark, basement lifts and COS is to be controlled via swipe key access for residents.

Externally the design provides no harsh corner treatments, which could otherwise result in blind corners, rather a site-specific design resulting with appropriate pedestrian consideration and movement.

*h) Principle 8: Housing Diversity and Social Interaction*

The mix of apartment's types and sizes is reasonable. The design adequately considers the promotion of social interaction, having appropriate COS and generously sized lobby.

As discussed above of the 42 apartments, 5 apartments (11%) are proposed to be designed in accordance with *Australian Standard 4299-1995 Adaptable housing*, these apartments and an additional 5 (11%) of the total apartments also incorporate the Liveable Housing Design (LHD) Guidelines silver level universal design features.

*i) Principle 9: Aesthetics*

The proposed treatments and finishes are of a high quality and suited to the coastal location and will provide for consistency with existing and approved developments within Precinct E to the north and D to the south. The proposal contributes to the desired future character of the area as controlled by the Design Guidelines Precinct D amendment 2.

vi. Shellharbour Local Environmental Plan 2013 (SLEP 2013)

Pursuant to Schedule 2 clause 3B, Environmental Planning Instruments will apply but only to the extent that they are consistent with the Concept Plan. With regard to the proposed permitted use within the land zone, height and FSR, the concept approval prevails. The development complies with the relevant clauses of SLEP 2013 as detailed in the compliance tables included as **Attachment 8**.

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

None.

**10. Section 4.15 (1) (a)(iii) – and development control plan**

The Urban Design Guidelines for Precinct D amendment 2 (Design Guidelines) provides specific built form and structure controls within Precinct D of the Shell Cove Concept Plan area. These guidelines were prepared in accordance with the requirements of the Part 3A Concept Plan and were endorsed by Council on the 8 May 2019.

The development is to be consistent with the Design Guidelines and an assessment of consistency is provided in **Attachment 9**

Shellharbour Development Control Plan 2013 (SDCP 2013)

*Pursuant to the Environmental Planning and Assessment Act (Savings, Transitional and Other Provisions) Regulations 2017*, the provisions of any development control plan do not have effect to the extent to which they are inconsistent with the terms of the approval of the Concept Plan. The DA has been assessed under the design guidelines developed for the Precinct D as required by the Concept Approval. Development objectives and provisions of SDCP 2013 will only apply where the Design Guidelines are silent.

**Variation to the SDCP requirements - Parking provision for function centre**

The non-compliance relates to a deficit of 54 spaces for the function centre.

The Design Guidelines do not provide staff parking rates for food and drink premises or parking rates for function centres. The rate for both these uses was taken from Shellharbour Development Control Plan 2013.

Arrangements for the food and drink premises staff parking have not been included in the parking requirements proposed for the food/drink premises. Provision of a shuttle bus service within the Shell Cove area which would operate during the weekend peak periods (midday and evening Saturday and Sunday) and would typically operate on a 30 minute shuttle. The service would follow a designated route and operate on a hail to ride basis (no designated bus stops). The bus would drop passengers off at the hotel location. This service has been secured by condition recommended in **Attachment 1** of this report.

A Workplace Travel Plan will also be required by condition to provide staff with encouragement and the facilities necessary to utilise public transport, car sharing, walking and/or cycling to the workplace.

Given the measures put in place by the recommended conditions, the development will suitably provide appropriate options for staff commuting to work and reduce the need to drive into the centre. Further

discussion of the parking provision proposed for the function centre is included in section 13 (i)(v) of this report.

The development is considered to be suitably consistent with the SDCP 2013 and a full assessment of consistency is provided in **Attachment 10**.

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

The necessary conditions have been recommended as part of the draft development consent conditions (**Attachment 1**).

**12. Section 4.15 (1) (a)(v) – (Repealed)**

**13. Section 4.15 (1)(b)- the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality;**

The proposal has the potential to result in adverse impacts as follows:

i. Visual Impact

A Visual Impact Assessment (VIA) has been submitted as part of the DA in line with the requirements of the Concept Plan. The VIA provides analysis of the visibility, visual exposure, and visual effects on views and streetscapes that would be caused by the built form proposed. The analysis uses 16 key viewpoints (as mapped in **figure 11**) and uses block model photomontages to illustrate how the proposed building will impact on these viewpoints. The VIA also provides analysis of the visual effects of the bulk and scale of the proposal.

The VIA finds that the proposed development does not distort the visual effects anticipated for the building envelope included for the site in the Concept Approval. There is minor encroachment as discussed in detail in section 4(iii) of this report, and this is considered acceptable in terms of visual effects.

Table 3 below provides a summary of the analysis of visual effects included in the submitted VIA.

<b>Table 3</b>	
<b>Location (as shown in figure 11)</b>	<b>Analysis of visual effects</b>
Location 2 James Cook Parkway adjacent to Top Reserve	<i>The quantum of the view loss is minor and the composition of the view, although scenic is not unique within the wider visual context. In this regard, the proposed development does not create any significant visual impacts of this view, the majority of which remains unaffected by the Hotel DA. We note that the height and bulk of the proposed built form reflects envelopes included in the Concept Approval and therefore the visual effects and impacts are part of the reasonable expectations of the desired future character for the Precinct.</i>
Location 9 Red Sands Avenue	<i>The quantum of the view loss is minor and the composition of the view, although scenic, is not unique within the wider visual context. In this regard, the proposed development does not create any significant visual impacts of this view, the majority of which remains unaffected by the Hotel</i>

Table 3	
Location (as shown in figure 11)	Analysis of visual effects
	<i>DA. We note that the height and bulk of the proposed built form reflects envelopes included in the Concept Approval and therefore the visual effects and impacts are part of the reasonable expectations of desired future character for the Precinct.</i>
Location 13 Cove Boulevard	<i>From this location, the built form proposed will predominantly block view of open sky.</i>
Location 14 Harbour Boulevard	<i>The tower is isolated in space and in this view will block areas of open sky. Within this visual context, we consider that the proposed development does not cause any significant view loss. We note that the height and bulk of the proposed built form reflects the indicative envelopes included in the Concept Approval and therefore the visual effects and impacts are part of the reasonable expectations of desired future character for the Precinct.</i>
Location 15 Ragamuffin Circuit	<i>This quantum of view loss and level of visual impact is an expected outcome of the Concept Approval and part of the reasonable expectations of the desired future character for the Precinct.</i>
Location 17 Brigantine Drive	<i>From this location, the built form proposed will predominantly block view of open sky, the loss of which is an expected outcome of the Concept Approval and part of the reasonable expectations of desired future character for the Precinct.</i>

The submitted VIA concludes that the proposed development will result in some impacts as based on the *Tenacity* planning principle. View loss would be minor to moderate in some of the closest views, location 9, 13, 14 and 17.

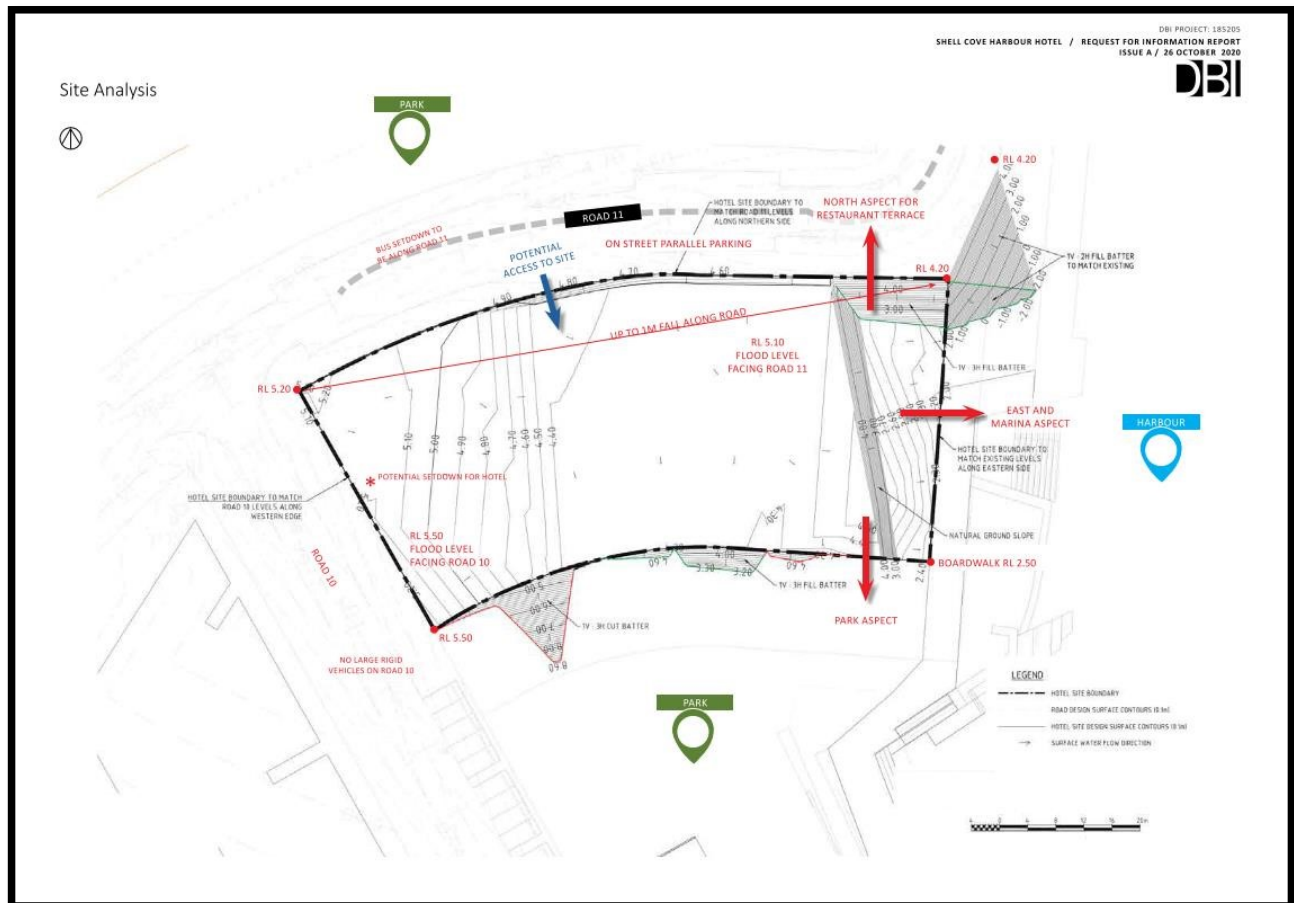
The VIA maintains that as the development of Precinct D progresses, in accordance with the Concept Approval, the extent of the visual effects and view loss generated by the proposed development is likely to drop to minor for all views.

In this regard, the level of view loss is reasonable given the intent of the Concept Approval and the impact is considered appropriate.

ii. Interface with adjoining public space

As discussed in the site description the application site adjoins future public open space to the south and public boardwalk to the east. The interface between the hotel development and these public areas has been a key consideration for Council.

The site is identified as flood prone and therefore subject to floor levels with a maximum height difference of 3 metres, and a 1 metre fall across the site (west-east) as per **figure 32**. The site constraints have resulted in large level changes at the site boundaries.



**Figure 32 - Site Analysis**

The impact of these level differences have been mitigated by stepping the proposed terrace, serving the food and drink premises down from the main restaurant area to the boardwalk. The retaining wall adjacent to the public boardwalk will be 1.5 metres high, with approximately 4.2 metres wide terrace stepping up to the restaurant area which is another 1.6 metres higher than the terrace. The impact of this level change has been softened by use of planting on the top of the retaining wall and on the adjoining site within the foreshore area. **Figure 33 and 34** details the interface between the food and drink premises and the public boardwalk. The terrace area will be accessible with steps and a suitable ramp.

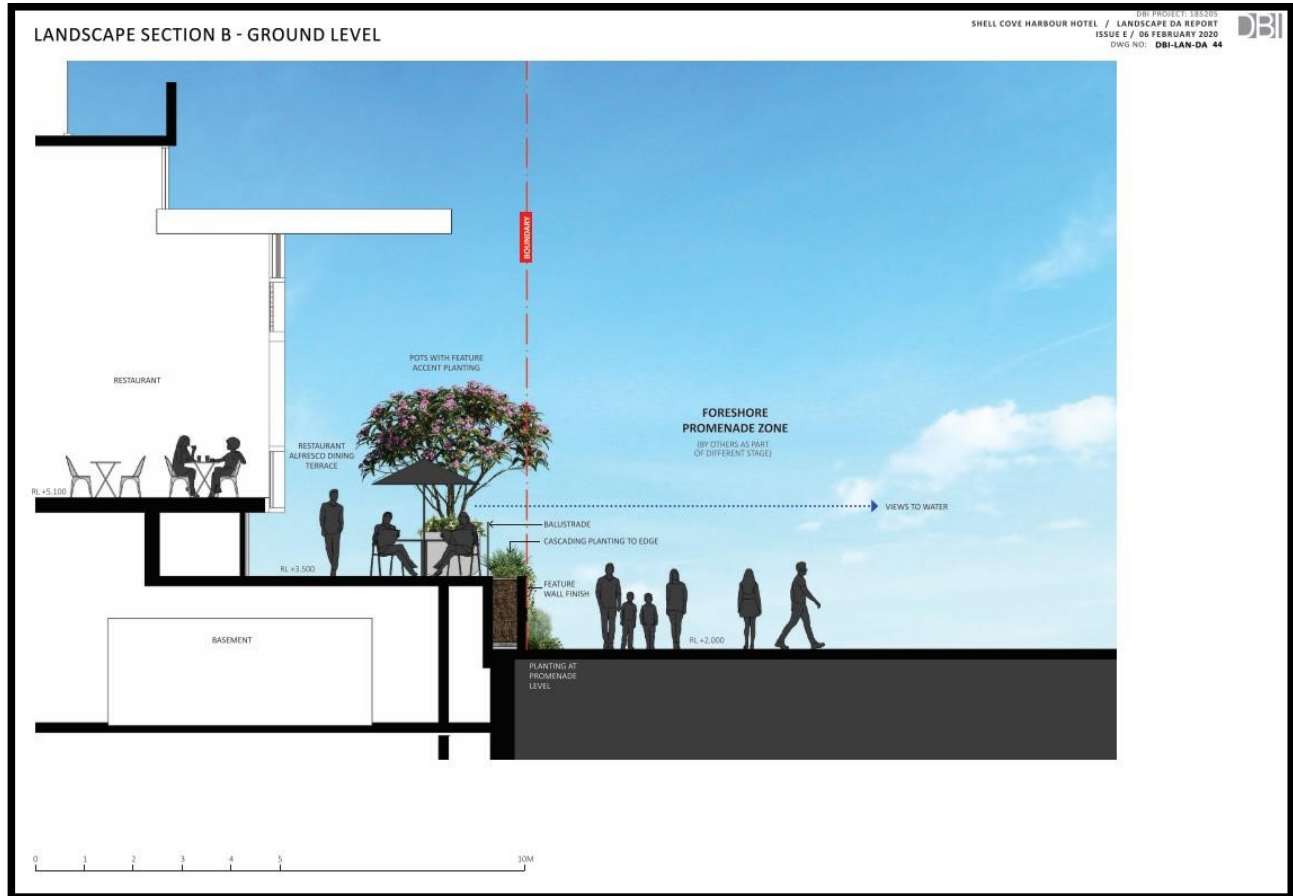


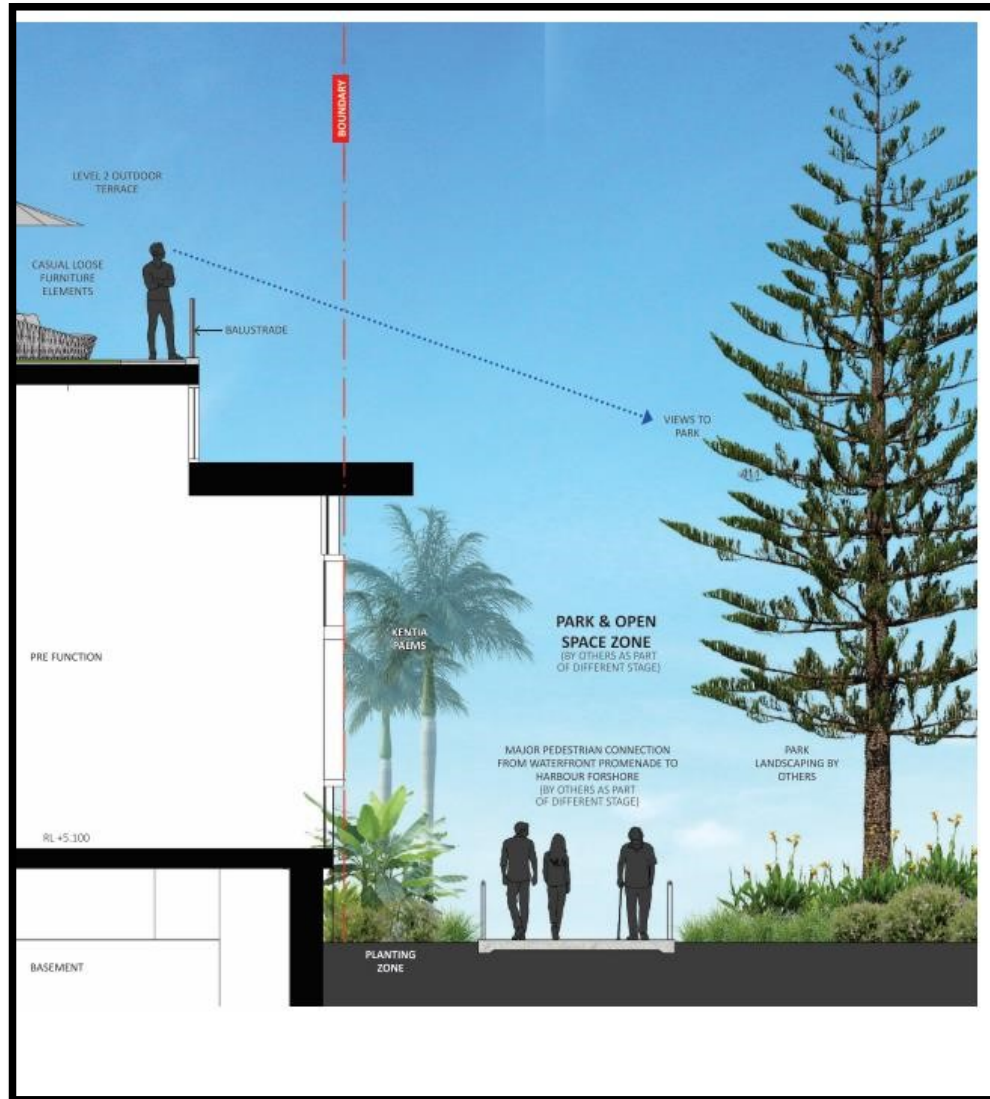
Figure 33 - section of terrace/boardwalk interface



Figure 34 - elevation of terrace/boardwalk interface

The second main interface with public open space for the site is to the south adjoining the Shell Cove Town Centre public park. The southern elevation of the development will sit approximately 1.2 metres higher than the adjoining land to the south. As this land is a public park, the proposal utilises planting and landscaping areas to soften the impact of the level changes on both sides of the site boundary.

Figure 35 details a section of this interface.



**Figure 35-** pre function space/park interface section

The proposed interface is sympathetically designed to accommodate the site constraints and the impact on the adjoining public open space areas. The utilisation of public and private landscaping to soften the built form is an acceptable outcome given the development of Precinct D as a whole has been considered in its entirety under the Concept Approval.

iii. Noise

Integrated Group Services (IGS) prepared a Shell Cove Hotel Development Noise Impact Assessment. The assessment considered noise emissions potentially affecting;

- Existing Acoustic Environment for surrounding roadways and natural noise levels on the proposed development and,
- Noise production associated with the development and its impact on the external surroundings and adjacent developments.

### *Future Environmental Noise Levels*

IGS has assessed the potential noise from the use of the surrounding future roadway and town centre (i.e. Waterfront Precinct). Data provided is based on the future uses within the vicinity of the site including roadways and town centre. IGS concludes that provided the recommended acoustic treatments are applied to the proposed building's façade, all relevant acoustic criteria will be achieved. Calculations for the recommended façade equipment have been made based on the measured traffic and calculated aircraft environmental noise levels.

### *External Noise Emission Assessment*

IGS assessed the predicted noise emission generated by the proposed development once completed. To do this they followed the NSW EPA Noise Policy for Industry (NPI), which provides detailed noise criteria for the control of noise generated from the operation of developments and the potential impact of that on surrounding receivers. The NPI 'Intrusiveness' method has been applied where noise emissions are ideally kept to within 5dBA of existing background levels.

In assessing the noise levels predicted to be generated on the site, IGS have provided the following recommendations:

- a. All mechanical services equipment are to be acoustically treated to ensure noise levels comply with the noise emission criteria detailed in Table 6 of the IGS Report (2019). Examples on how this could be achieved are provided in section 7.3 of the report. Details of the required design, mechanical services equipment and acoustic treatments required to ensure the relevant noise level criteria is achieved will be provided as part of the Construction Certificate submission of the project.
- b. Recommendations to mitigate noise impacts of Public Open Spaces including Level 2 Open Grass Area, Level 5 Pool Area and Level 11 Private Pool Area have been included in section 7.4 of the IGS Report (2019).

Suitable conditions have been recommended in **Attachment 1** requiring the recommendations as above to be implemented.

### *Internal areas reverberation times*

The public areas (ballroom, restaurant areas, function rooms, toilets) are to meet recommended reverberation times or Australian Standard 2107:2016 Acoustics - Recommended design sound levels and reverberation times for building interiors. The report made recommendations for finishes to comply with these standards. It is important to note however these are just a guide and alternative finishes may be possible. Desired reverberation time (particularly for Ballroom) is subject to internal volume and intended use. The report recommends guidance from acoustic engineer in meeting the reverberation time standards with desired finishes for the different areas.

### *Food and Drinks Premises*

Noise emissions criteria from the operation of the restaurant and external areas are set out in the report. As the report states, once the details of the proposed restaurant are finalised a detailed noise impact assessment is required for approval of the licenced premises. The report lists suggested details and controls to achieve the prescribed noise criteria.

There is a requirement to balance the different uses within the Town Centre Precinct and the proposed mixed-use development subject of this DA. The focus is to protect the proposed residential units from unreasonable noise whilst still allowing the Food and Drink premises and Hotel to operate in a reasonable manner.

As with consideration of the Tavern development (under DA0005/2018) which is approximately 20 metres from residential apartments, an approach has been identified which relies on construction measures and operational management to achieve the required noise criteria:

- i. Acoustic mitigation construction measures.
  - a. Levels 1 – 11. All external glass must be 6.38mm and laminated, with exception for the wet areas associated with the apartments, which must have 6mm float/toughened glass.
  - b. All lightweight external plasterboard walls must have minimum acoustic performance of RW 50.
  - c. All openings and penetrations must be acoustically treated for example lining of ductwork behind mechanical service openings/drills and treatment to ventilation openings.
  - d. The proposed masonry and concrete external walls and roof are acceptable without additional acoustic treatment.
- ii. Plan of Management for the operation of the Communal Open Space areas.

The noise mitigation measures will need to include operational measures to ensure that the required noise criteria are achieved. A noise management plan that is required by condition regarding operating hours and access control.

- iii. Plan of Management for the operation of the Food and Drink Premises and Function Centre.

The noise mitigation measures will need to include operational measures to ensure that the required noise criteria are achieved. A noise management plan is required by condition regarding operating hours for the terrace area and restaurant/bar.

#### Concluding Comments

The acoustic requirements as outlined above are considered to offer a suitable balance between the use of this area as part of the commercial centre whilst still respecting the requirements of the residential receivers within the same development.

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

#### iv. Parking and Access

A total of 337 parking spaces are proposed within a four level basement parking area. The breakdown for parking allocation is shown in **table 4** below.

Table 4				
Land Use	Proposed amount	Parking rate	Parking requirement	Parking provision
Hotel	117 rooms	0.8 space per room	94 spaces	94 spaces
Residential Apartments	42 units	1.5 spaces per unit (2+ beds)	63 spaces	63 spaces
Residential Visitors	42 units	0.5 spaces per unit (2+ beds)	21 spaces	21 spaces

<b>Table 4</b>				
Serviced Apartments	32 units	0.9 spaces per unit (2+ beds)	29 spaces	29 spaces
Function centre	470sqm	1 space per 4sqm	118 spaces	64 spaces
Food and drink premises	445sqm	15 spaces per 100sqm	66 spaces	66 spaces
<b>Total</b>			<b>391 spaces</b>	<b>337 spaces</b>

The deficit of parking spaces is 54 spaces. These spaces would be from the function centre use proposed as part of the hotel.

Justification has been submitted by the applicant relating to this deficit, which has been reviewed on behalf of Council by Bitzios Traffic Engineering, as discussed in detail in section 5 (ii) of this report.

It is accepted that a significant portion of the function centre visitors will co-use the hotel rooms and therefore is absorb within the hotel parking bays. The exception may be during peak times of year (especially summer months) which is consistent with parking demands for most tourism and city centres and is acceptable.

The consideration of allocation of parking is vital for the operation of the mixed-use development proposed. The Design Guidelines state as follows:

*"All future developments for residential purposes within Precinct D to be fully compliant for the purposes of residential and visitor spaces to be provided on site."*

It is important to note that the deficit is for the function centre only and the residential elements of the parking requirements are met in full.

The applicant has not provided any confirmation of how the car parking areas will be managed between the uses within the building. Therefore, a condition requiring a suitably detailed plan of management has been recommended and is included as condition 33 in **Attachment 1** of this report. The condition relating to this plan of management as follows:

### **33. Car Parking Management Plan**

*Prior to issue of a Construction Certificate, a Car Parking Management Plan is required to be submitted to the Principal Certifier for approval. The Plan must include, but is not restricted to, the following:*

- b. To restrict general public access at the street entrance to the basement parking area;*
  - ii. details of the provision of physical separation (such as boom gates or roller doors)*
  - iii. details of the electronic management system proposed to manage access for residential tenants, residential visitors, staff and other bona fide visitors to the site*
  - iv. details demonstrating how a vehicle that is restricted is able to safely turn around and exit (based on a B99 vehicle).,*
- c. To restrict staff and visitor access to residential parking areas within the basement car park;*
  - ii. details of the internal physical separation (such as boom gates or roller doors) for the 63 residential parking spaces*
  - iii. details of the electronic management system proposed to manage access for residential tenants*
  - iv. details demonstrating how a vehicle that is restricted is able to safely turn around and exit (based on a B99 vehicle).*

*d. Details of the processes proposed to manage parking allocation of the visitor and staff car spaces;*

*ii. that as a minimum guarantees the ability to service a minimum of 21 residential visitor car spaces at all times.*

*iii. that maximises car park utilisation and minimises on-street parking*

*iv. that does not provide visitors with access when the visitor parking allocation is full.*

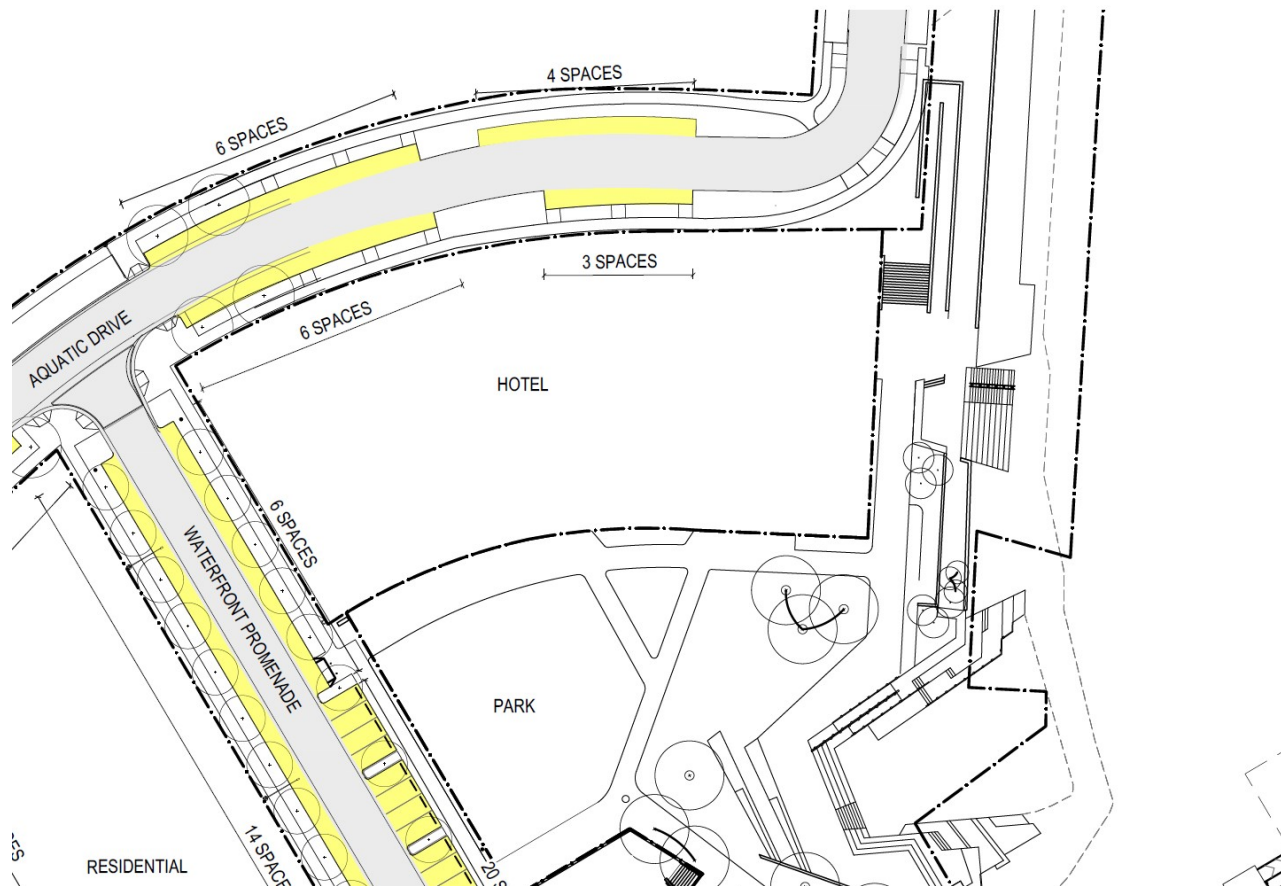
*d. The location and layout of any controls and associated devices in the car park must be designed in accordance with AS 1428 and AS/NZS 2890.1 - 2004 Parking facilities Part 1: Off-street car parking (or subsequent amendments) and with regard to queuing and access to nearby car parking spaces.*

The applicant refers to a bus set down/pick up area to be located on Aquatic Drive on the northern side of the development site. This area would have resulted in the loss of approximately 25 metres of on street parking and is not supported for the exclusive use for the hotel. During the assessment, Council engaged with the precinct land developer, Frasers Property Australia to create a temporary bus stop at the proposed location on Aquatic Drive for use of the wider precinct and public buses. This temporary bus stop cannot be used for private buses.

In any instance, the site is accessible for buses and it is reasonable to require a bus management plan to be developed as part of the operational plan of management for the hotel to ensure patrons arrive at the most accessible and direct location of the hotel.

Impact on street parking would be a removal of a total of 4 on street parking spaces. This is taken from the Town Centre Masterplan Parking Allocation plan reference L-13294 revision C dated 06.02.2013 which is included as **Attachment 15** and forms part of the UDGs for Precinct D. The reduction of on-street parking is a result of vehicle access requirements for the hotel basement parking levels/loading bay and for the pickup/drop off area at the lobby of the Hotel.

**Figure 36** below details the application site within the Town Centre Masterplan Allocation plan. Two spaces will be lost from street parking along Waterfront Parade and two spaces from Aquatic Drive. The loss of four parking spaces is reasonable given the access requirements of the proposed mixed-use development. It would be seen as a retrograde step to combine the basement parking/loading bay access and the hotel pick up/drop off area in order to maximise on street parking. Furthermore, the Masterplan Allocation plan (**Attachment 15**) was not suitably detailed to reflect the width of access that would be required for a mixed use such as proposed.



**Figure 36** – Detail section of Town Centre Masterplan Parking Allocation (for full plan see **Attachment 15**)

The dimensions of the proposed car parking spaces for the hotel and serviced apartments do not comply with the requirements of Australian Standard 2890.1 Parking Facilities for User Class 2 spaces.

AS2890.1 describes User Class 2 as:

*"Long-term city and town centre parking, sports facilities, entertainment centres, hotels, motels airport visitors (generally medium-term parking)."*

AS2890.1 requires minimum dimensions of 2.5m x 5.4m. Therefore the spaces defined as Hotel, Restaurant, Serviced Apartments, Function Rooms, do not comply with this requirement by 0.1m width. The aisle widths for all parking spaces comply with AS2890.1.

The variation proposed to AS2890.1 is minor; the reason for this additional width is to be mainly for visitors who have luggage etc. allowing them to fully extend doors. A suitable management plan relating to the dropping off and collection of luggage at the lobby of the hotel, prior to entry of the car park is a suitable alternative working solution. This has been secured by condition included in **Attachment 1**.

The two accessible car parking spaces in the south-eastern corner of Basement Level 4 do not comply with AS2890.6 minimum shared area of 2.4m width. This has been addressed by condition to ensure compliance.

The access ramp is suitably sized and graded to allow service vehicles entry to the development including the waste storage area. The provision of a 12.5 metre turntable within the loading dock accessed from Aquatic Drive will allow service vehicles to enter and exit the site in a forward direction. An automated signalling system for loading dock and basement access has been proposed, compliance of this system is ensured by recommended condition.

Residential pedestrian access is separate to vehicle access and will be suitably secure.

v. Social Impact

A Social Impact Assessment (SIA) has been prepared to accompany the subject DA. The purpose of the SIA is to identify and address the social impacts of the proposed development. The findings of the SIA have been suitably assessed and no significant or detrimental social impacts have been identified that cannot be mitigated.

The submitted SIA, level 1 (including the licensed premises) and level 2 (for the remainder of the development) has demonstrated that the potential positive and negative impacts of the development have been suitably mitigated and/or managed.

vi. Wind Conditions

A qualitative wind assessment has been provided by the applicant to demonstrate the impact of the proposed development on the wind conditions in the surrounding areas and within the development.

The results of this assessment indicate that the subject development is relatively exposed to the three prevailing wind directions, affecting the site. As a result, there is a possible impact on the wind comfort at ground floor and within certain areas of the communal open spaces of Level 2, Level 5, Level 11 and private balconies of the development.

A number of recommendations have been made in the report relating to treatment strategies for each of the key areas identified. These recommendations are in line with the proposed balcony treatments included in the plans. The recommendations of this report are to be secured by condition as recommended in **Attachment 1**.

vii. Urban Design

The proposed development has undergone three reviews from the DRP, as discussed in section 6 of this report. The design of the building has been amended and refined to address the comments of the DRP.

The development creates a landmark building on the edge of the town centre. The proposal will deliver a space that provides active ground floor uses, including food and drink premises, a retail unit, function centre and day spa. These uses will successfully generate a vibrant street environment. The building will maintain identified public view corridors to the boat harbour and define the water edges with suitable public/private interface achieved.

The proposed density of the development is suitable for Precinct D and will help deliver the dwelling yield outcomes required by the Concept Approval.

The materials and finishes of the building are reflective of the coastal location of the site and co-ordinate with the existing and future built form within the precinct.

Council is satisfied that the building responds to the urban design principles for Precinct D.

#### **14. Section 4.15 (1)(c)- the suitability of the site for development;**

The site is suitable for the development for the reasons as follows;

- a) The Concept Plan envisages a mixed use development including hotel/serviced apartments and residential accommodation within this location;
- b) The building proposed is of an appropriate scale and design adjoining the waterfront;
- c) There are no contamination issues that would preclude residential development on this site subject to compliance with submitted Acid Sulphate Soil Management Plan;
- d) An assessment of the Social Impact has demonstrated that the development proposed would be suitable for the site and the surrounding Shell Cove Concept Plan area, and;
- e) The proposal is consistent with the provisions of the Concept Plan and the Design Guidelines for Precinct D.

The development site is a key location at the Town Centre entrance and adjacent to the Marina. The building design is to be suitable for this location and the proposed uses. The development benefits from internal parking and loading provision. The site is suitable for the development

#### **15. Section 4.15 (1)(d)- any submissions made in accordance with the Act or the Regulations;**

Pursuant to s2.22 of the *Environmental Planning & Assessment Act 1979* (the Act), the DA was publicly notified as required by the provisions of the *Shellharbour Development Control Plan* (SDCP).

The DA was publicly notified for a period of 32 days commencing 17 January 2020 and closing 17 February 2020. The notification included a DA notification sign on the land, letters to property owners/occupiers within 50m of the site and an advertisement notice in the local newspaper seeking representations regarding the proposal to be submitted for Council's consideration within the exhibition period. Nil submissions were received.

#### **16. Section 4.15 (1)(e)- the public interest.**

The proposal is consistent with the Concept Plan Approval. The proposal will provide a mixed-use development, comprising of hotel accommodation and serviced apartments for tourists and visitors to the area, and facilities associated with this use. The development will also provide residential accommodation with suitable facilities.

The development has the potential to provide job opportunities within Shell Cove and the wider local area. This will contribute to the activation of the Marina foreshore and Shell Cove Town Centre.

Potential impacts of the development have been identified and addressed subject to the recommended conditions included in **Attachment 1**.

As such, granting development consent for this proposal will not undermine the public interest subject to appropriate conditions being imposed.

#### **17. Conclusion**

The proposed development:

- a. Is suitably consistent with the relevant statutory requirements, development controls and planning objectives, and
- b. is consistent with the applicable provisions of the relevant state planning policies including SEPP 65 and the Apartment Design Guide;
- c. is able to contribute to the overall vehicle parking requirements that will service the subject DA;
- d. has been designed to respect and enhance the coastal character of the Shell Cove Concept Approval area and the specific character of Precinct D.

Based on the assessment undertaken by Council there are no outstanding issues.

## **18. Recommendation**

That conditional development consent is granted to **Development Application No. 0610/2019 (PPSSTH-22)** to construct an 11 storey mixed use development consisting of hotel accommodation, 32 serviced apartments, 42 residential apartments and basement parking at Lot 4021 DP1254658 (Formerly Lot 4008 DP1219051) 10 Waterfront Parade, Shell Cove (Precinct D). The recommended conditions are detailed in **Attachment 1**.