



**DETERMINATION AND STATEMENT OF REASONS**  
SOUTHERN REGIONAL PLANNING PANEL

<b>DATE OF DETERMINATION</b>	21 September 2023
<b>DATE OF PANEL DECISION</b>	21 September 2023
<b>DATE OF PANEL MEETING</b>	12 September 2023
<b>PANEL MEMBERS</b>	Chris Wilson (Chair), Juliet Grant, Susan Budd, Chris Homer
<b>APOLOGIES</b>	Graham Rollinson
<b>DECLARATIONS OF INTEREST</b>	None

Public meeting held by videoconference on 12 September 2023, opened at 4pm and closed at 5:30pm.  
Papers circulated electronically on 18 September 2023.

**MATTER DETERMINED**

PPSSTH-223 – Shellharbour – DA0499/2022 at 1 Arcadia Street Warilla & Lowe Park, George Street Warilla (Lots 200, 201 and 203 DP 786257) - Seniors Housing – Independent Living Units - Demolition of existing structures and removal of trees, construction of seniors housing, including 118 independent living units, communal facilities, neighbourhood shop, parking and landscape areas (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.

The Panel had the benefit of several briefings from Council, a briefing from the applicant and a site inspection. Prior to the determination meeting, Council provided the Panel with the applicants response to the draft set of conditions. The Panel considered the comments provided by the applicant and the recommendations provided by Council. The Panel's consideration of these comments is detailed in the Conditions section below.

At the final briefing, the Panel sought clarification of several issues including:

- The traffic impact assessment particularly regarding the capacity of the site, the proposed single access point, and impacts on the local and regional road network;
- The need for dilapidation reports before construction for those residential properties adjoining the southern boundary;
- The potential impacts associated with the built form (additional height) on solar access, air quality and privacy with a specific focus on the southern interface;
- Flooding and 'Refuge in Place' arrangements;
- The need for greater management of construction related impacts including the need to ensure all construction related vehicles park (and queue) on site at all times, and the need for a formal communication strategy; and
- Vegetation loss.

The Panel was satisfied that these issues had either been addressed or could be addressed through the conditions. In this respect, the Panel was satisfied that the draft conditions as recommended were appropriate and justified in the context of the proposed land uses, subject to the amendments requested by the Panel which are discussed further below. The Panel agreed that the applicant had responded appropriately to the issues raised by the community, Council and the Panel, especially the built form outcomes at residential interfaces. The Panel also agreed that the development would deliver much needed Seniors Housing with good access to services.

#### **Clause 4.6 departure from development standard**

Following consideration of a written request from the applicant, made under cl 4.6 (3) of the Shellharbour Local Environmental Plan 2013 (LEP), that has demonstrated that:

- a) compliance with cl. 4.3 (building height) is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard

the Panel is satisfied that:

- a) the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- b) the development is in the public interest because it is consistent with the objectives of cl. 4.3 (building height) of the LEP and the objectives for development in the R3 Medium Density Residential zone; and
- c) the concurrence of the Secretary has been assumed

#### **Development application**

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*. In doing so, the Panel was satisfied that:

- The prerequisites for the grant of consent had been met;
- The proposal was consistent with the existing and the desired future character of the area and had good access to services;
- The built form outcomes would not result in any unacceptable external or internal amenity outcomes;
- The Clause 4.6 request was well justified;
- A thorough assessment in terms of Section 4.15 of the *Environmental Planning and Assessment Act, 1979* had been undertaken; and
- Consequently, the development was deemed to be in the public interest.

The decision was unanimous.

#### **REASONS FOR THE DECISION**

The Panel determined to uphold the Clause 4.6 variation to building height and approve the application for the reasons outlined in the Council's Assessment Report.

#### **CONDITIONS**

##### **Recommended conditions – applicants request.**

As noted above, the applicant sought several amendments to the Council's recommended conditions of consent. These are discussed below.

- The Applicant sought an amendment to Condition 11 relating to Development Contributions to include the proposed Works in Kind (WIK). Whilst supporting a WIK outcome, the Council is of the view that there is insufficient information to support approval at this time. Consequently, Condition 11 enables discussion regarding the specific details surrounding the WIK at a later date. This is both a common and acceptable practice. Accordingly, the Panel did not support the Applicant's request.
- The Applicant raised concern regarding the applicability and functionality of Condition 15 relating to Civil Plans. The aim of the Condition was to protect existing vegetation within the riparian corridor. Council concedes there is already sufficient protection within the conditions and through the required vegetation management plan (VMP) and supports the deletion of the Condition to which the Panel has agreed.
- Condition 89 requires "A Restriction as to User" be created on title to ensure that the development cannot be occupied by persons other than people who are least 60 years of age, or people who have been appropriately assessed. The Applicant submitted that this Condition should be amended to remove the reference to 'people who are least 60 years of age'. The Panel has considered this matter and is satisfied that the SEPP Housing includes a reference to 'people who are at least 60 years of age' in the definition of 'seniors' and, consequently, is of the opinion that this reflects the policy intent of the provision. Accordingly, the Panel does not support the deletion of this reference.

- The Applicant sought an amendment to Condition 115 to acknowledge that approval for the fit out of the neighbourhood shop could be achieved via a complying development certificate (CDC). Both Council and the Panel agree that this is acceptable, and the wording has been amended accordingly.

The Development Application was approved subject to the conditions in the Council Assessment Report with the following amendments:

- Condition 15 – Civil Plans as discussed above was considered redundant and deleted;
- Condition 15 (new) was included to minimise air quality impacts on neighbouring residential properties. It reads as follows:
 

**Condition 15 – Undercover car parking**  
*There shall be no ventilation (mechanical or otherwise) along the southern façade of the car parks in buildings D, E and F.*
- Condition 21 was amended to provide additional protection of residential amenity during construction and now includes:
 

**Condition 21 – Construction Traffic Management Plan (CTMP)**  
*The Plan must include measures to ensure all construction related vehicles are parked and queued on site.*
- Condition 48 was amended to further mitigate construction impacts on adjoining residential properties during construction and now includes:
 

**Condition 48 – Dilapidation Report** to include “all dwellings that share a boundary along the southern interface”.
- Condition 54 was amended to further minimise impacts on the community during construction and now includes the need to prepare a Community Communication Strategy:
 

**Condition 54 – Site Management**  
*A Community Communication Strategy which details timing for the works and measures to reduce impacts on the local community including direct contact details, complaints resolution and handling procedures.*
- Condition 84 has been amended to provide additional provisions to help ensure resident and visitor safety during a major flood event, and now reads as follows:
 

**Condition 84 – Flood Emergency Response Plan**

  - *the Flood Emergency Response Plan shall be provided to all residents prior to occupation.*
  - *a Flood Emergency Kit must be prepared for each safe refugee area . The kit must be located within the refugee area above the PMF level, and made conspicuous and easily accessible to occupants and visitors at all times. The Kit must include but not be limited to the following items as minimum:*
    - *The Flood Emergency Response Plan*
    - *Emergency service contact information (SES, Police, Ambulance, Hospital etc)*
    - *Provision of emergency communications ie battery operated AM/FM radio and Two-way radios etc*
    - *Food, water, First Aid, medical supplies, batteries, chargers and other essential supplies for all occupants and visitors if a shelter-in-place strategy is advised by the SES. These provisions are to be consistent with the Red Cross Guidelines for Sheltering in Place.*
- Condition 115 was amended to reflect that approval for the fit out of the neighbourhood shop could be achieved through the issue of a complying development certificate (CDC). The Condition now reads as follows:
 

**Condition 115 – Neighbourhood Shop** – last para now reads:  
*This consent does not include the fit-out of neighbourhood shop. The first use of the tenancy is to be the subject of a separate approval.*

- Condition 118A (new) has been inserted to ensure landscaping is maintained in perpetuity and reads as follows:  
**Condition 118A – Landscaping**  
*All landscaping on site is to be maintained in perpetuity.*
- Various administrative edits throughout the document to ensure consistency and clarity.

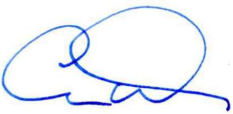

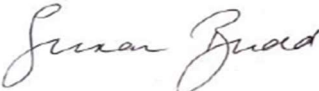

The final approved conditions of consent, which include the amendments made by the Panel, can be found attached in **Schedule 2**.

### CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the Panel. The Panel notes that issues of concern included:

- Building height, bult and scale
- Streetscape incompatibility
- Building setbacks
- Visual privacy impacts
- Solar access
- Loss of amenity and views
- Traffic and car parking impacts
- Construction impacts
- Waste Collection
- Residential amenity impacts
- Water table impacts
- Traffic Impacts
- Location of the substation
- Tree removal
- Air quality impacts on neighbouring residential properties from car parking and mechanical ventilation.

The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report and the conditions of consent, and that no new issues requiring assessment were raised during the public meeting. The Panel notes that a request was made for the applicant to construct a pergola on an adjacent property for the safety of the children residing in the property. The Panel, whilst noting the request, was satisfied that given the setbacks of the upper levels of the development and the ability to deliver deep soil planting at this point, there was insufficient justification to require the imposition of a condition to implement this request. All other issues raised by the community at the public meeting have been addressed.

PANEL MEMBERS	
 Christopher Wilson (Chair)	 Juliet Grant
 Susan Budd	 Chris Homer

### SCHEDULE 1

<b>1</b>	<b>PANEL REF – LGA – DA NO.</b>	PPSSTH-223 – Shellharbour – DA0499/2022
<b>2</b>	<b>PROPOSED DEVELOPMENT</b>	Demolition of existing structures and removal of trees, construction of seniors housing, including 118 independent living units, communal facilities, neighbourhood shop, parking and landscape areas.
<b>3</b>	<b>STREET ADDRESS</b>	1 Arcadia Street Warilla Lowe Park, George Street Warilla (Lots 200, 201 and 203 DP 786257)
<b>4</b>	<b>APPLICANT/OWNER</b>	ADM Architects – Applicant Warrigal Care - Owner Shellharbour City Council (owner of Lowe Park)
<b>5</b>	<b>TYPE OF REGIONAL DEVELOPMENT</b>	General development over \$30 million
<b>6</b>	<b>RELEVANT MANDATORY CONSIDERATIONS</b>	<ul style="list-style-type: none"> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>○ State Environmental Planning Policy (Planning Systems) 2021</li> <li>○ State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>○ State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>○ State Environmental Planning Policy (Building Sustainability Index - BASIX) 2004</li> <li>○ State Environmental Planning Policy (Housing) 2021</li> <li>○ State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development</li> <li>○ Shellharbour Local Environmental Plan 2013</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Shellharbour Development Control Plan 2013</li> </ul> </li> <li>• Planning agreements: Nil</li> <li>• Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i></li> <li>• Coastal zone management plan: Nil</li> <li>• The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>• The suitability of the site for the development</li> <li>• Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>• The public interest, including the principles of ecologically sustainable development</li> </ul>
<b>7</b>	<b>MATERIAL CONSIDERED BY THE PANEL</b>	<ul style="list-style-type: none"> <li>• Council Assessment Report: <b>22 August 2023</b></li> <li>• Clause 4.6 departure from development standard - Clause 4.3 (building height) Shellharbour LEP 2013</li> <li>• Applicant response to draft conditions of consent: <b>11 September 2023</b></li> <li>• Written submissions during public exhibition: 28 (26 on 1<sup>st</sup> notification &amp; 2 on 2<sup>nd</sup> notification)</li> <li>• Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>○ Corrine Boyle, Dianne Bourne, Mari Pinilla, Tim Koning obo The Neighbourhood Group, Abbey Warren.</li> <li>○ Council assessment officer – Nicole Doughty, Mathew Rawson, Jasmina Mickevski</li> <li>○ On behalf of the applicant – Angelo Di Martino (ADM Architects), Grant Styliano (Warrigal Health), Elaine Treglown (Stantec), Stephen Falkner ( JN Responsive Engineering)</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>Total number of unique submissions received by way of objection: 10 (8 on 1<sup>st</sup> notification and 2 on 2<sup>nd</sup> notification)</li> </ul>
	<b>MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL</b>	<ul style="list-style-type: none"> <li>Council and Applicant Briefing: 28 February 2023 <ul style="list-style-type: none"> <li><u>Panel members</u>: Chris Wilson (Chair), Juliet Grant, Susan Budd, Graham Rollinson, Chris Homer</li> <li><u>Council assessment staff</u>: Nicole Doughty, Mathew Rawson, Jasmina Micevski</li> <li><u>Applicant representatives</u>: Angelo Di Martino (ADM Architects), Elaine Treglown (Stantec), Grant Stylianou (Warrigal Health), David Issa (Warrigal Health)</li> <li><u>Other</u>: Tracey Gillett (DPE)</li> </ul> </li> <li>Site inspection: 8 March 2023 <ul style="list-style-type: none"> <li><u>Panel members</u>: Chris Wilson (Chair), Juliet Grant, Susan Budd, Graham Rollinson, Chris Homer</li> <li><u>Council assessment staff</u>: Nicole Doughty, Mathew Rawson, Andrew McIntosh</li> <li><u>Applicant representatives</u>: Grant Stylianou (Warrigal Health)</li> <li><u>Other</u>: Amanda Moylan (DPE)</li> </ul> </li> <li>Final briefing to discuss council's recommendation: 12 September 2023 <ul style="list-style-type: none"> <li><u>Panel members</u>: Chris Wilson (Chair), Juliet Grant, Susan Budd, Chris Homer</li> <li><u>Council assessment staff</u>: Nicole Doughty, Mathew Rawson, Jasmina Micevski</li> <li><u>Other</u>: Amanda Moylan (DPE), Tracey Gillett (DPE), Hannah Collins (Gyde student planner)</li> </ul> </li> </ul>
<b>9</b>	<b>COUNCIL RECOMMENDATION</b>	Approval
<b>10</b>	<b>DRAFT CONDITIONS</b>	Attached to the Council Assessment Report

**Attachment 1: Draft Conditions of Consent****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.

<b>Name of Plan/Document</b>	<b>Prepared By</b>	<b>Drawing/Document No./Revision</b>	<b>Drawing/Document Date</b>
Neighbouring Building Sections	ADM Architects	A-007, Issue B	14.07.2023
Site Plan	ADM Architects	A-101, Issue C	14.07.2023
Ground Floor Plan	ADM Architects	A-102, Issue B	14.07.2023
Level 1 Floor Plan	ADM Architects	A-103, Issue B	14.07.2023
Level 2 Floor Plan	ADM Architects	A-104, Issue B	14.07.2023
Roof Plan	ADM Architects	A-105, Issue B	14.07.2023
Typical Layout 2 - Bed	ADM Architects	A-106, Issue B	14.07.2023
Typical Unit Layout – 3 Bed & 1 Bed Types	ADM Architects	A-107, Issue B	14.07.2023
Elevations 01	ADM Architects	A-201, Issue C	14.07.2023
Elevations 02	ADM Architects	A-202, Issue C	14.07.2023
Elevations 03	ADM Architects	A-203, Issue C	14.07.2023
Master Legend	DSB Landscape Architects	4272-F102 E, Sheet 1.2	09.08.2023
Landscape Plan Ground Floor – Area 1	DSB Landscape Architects	4272-F201 E, Sheet 2.1	19.07.2023
Landscape Plan Ground Floor – Area 2	DSB Landscape Architects	4272-F202 E, Sheet 2.2	19.07.2023
Landscape Plan Ground Floor – Area 3	DSB Landscape Architects	4272-F203 E, Sheet 2.3	19.07.2023
Landscape Plan Level 1	DSB Landscape Architects	4272-F301 B, Sheet 3.1	16.09.2022
Off-Site Works Plan	DSB Landscape Architects	4272-F401 A, Sheet 4.1	13.07.2023

Tree Planting Plan	DSB Landscape Architects	4272-F402 C, Sheet 4.2	09.08.2023
General Notes and Legend	JN	Q0200012, C001, A	17.07.2023
Preliminary Cut Fills Vols – Basement Option	JN	Q0200012, C205, B	17.07.2023
Preliminary Levels – Basement Option	JN	Q0200012, C206, C	17.07.2023
Swept Path Analysis Basement Ramp Layout	JN	Q0200012, C306, B	10.08.2023
Proposed Stormwater Layout	JN	Q0200012, C400, C	17.07.2023
Stormwater Detail Plan	JN	Q0200012, C402, B	17.07.2023
Stormwater Details Pump out Plan	JN	Q0200012, C403, A	17.07.2023
Waste Management Plan	JN	Q0200012, C500, C	15.08.2023
Proposed Public Footpath Layout	JN	Q0200012, C600, A	17.07.2023
Evacuation Management Plan	JN	Q0200012, C700, A	17.07.2023
Colour and Materials Schedule 01	ADM Architects	A-401, Issue A	12.09.2022
Colour and Materials Schedule 02	ADM Architects	A-401, Issue A	12.09.2022
Preliminary Site Investigation with Limited Sampling	EI Australia	E24936.E01_Rev0	12.02.2021
Warrigal Warilla Arcadia Street Proposed Community Hub Plan of Management	G. Stylianou	-	21.09.2022
BASIX Certificate *	Greenview Consulting Pty Ltd	No: 1336936M_03	03.08.2023
Statement of Compliance Access for People with a Disability	Accessible Building Solutions	Job No: 221339	16.09.2022
WSUD Treatment Report	JN	CRPT-Q0200012.04A, Rev A	14.09.2022
Vegetation Management Plan	Southern Habitat	-	15.09.2022
Flood Impact Assessment	JN	CRPT-Q0200012.01C, Rev C	14.09.2022
Arboricultural Development Assessment Report	Moore Trees	-	September 2022
AIA Addendum to Development Application	Moore Trees	-	11.08.2023
Waste Management Plan	JN	CRPT-Q200012.10B	15.08.2022



\*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. Compliance with Notations on Drawings**

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

#### **5. Department of Planning and Environment – Water**

The Department of Planning and Environment has issued General of Terms of Approval, reference no. IDAS-2022-10701 dated 10 August 2023 which forms part of this Notice of Determination. The General Terms of Approval are detailed in Part H of this consent

#### **6. Sydney Water**

Correspondence has been received from Sydney Water, reference no. 203948 dated 10 January 2023 (attached to this consent at Part H).

#### **7. Endeavour Energy**

Correspondence has been received from Endeavour Energy, reference no. CNR - 47865 dated 6 November 2022 (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 6 dated November 2022'. This document can be found on the Planning Portal under 'Agency Advice'.

#### **8. House Numbering**

- a. The private internal road shall be named prior to lodgement of a Construction Certificate application. The new road name is to be submitted for Council's consideration and comply with Council's "Naming and Addressing Policy" and NSW Addressing User Manual (AUM). An application for the road name can be made using Council's Road Naming Application form;
- b. sub addresses for this development will be allocated following approval of the road name and prior to issue of a Construction Certificate. Contact is to be made with Council's GIS department to obtain the addresses; and
- c. primary addresses are allocated as follows:

<b>Building</b>	<b>Number</b>	<b>Street Name</b>	<b>Street Type</b>	<b>Locality</b>
Op Shop / Neighbourhood Shop	1A	Arcadia	Street	Warilla
Building A (Independent Living Units)	1	Arcadia	Street	Warilla
Building B (Independent Living Units)	3	NEW NAME		Warilla

Building C (Independent Living Units)	5	NEW NAME		Warilla
Building D (Independent Living Units)	6	NEW NAME		Warilla
Building E (Independent Living Units)	4	NEW NAME		Warilla
Building F (Independent Living Units)	2	NEW NAME		Warilla

- d. the internal road shall be signposted with the approved name as per Australian Standards;
- e. the finished buildings shall have effective identification of each primary street number (as allocated in the table above), with number signage displayed prominently, be constructed of a material that contrasts with the background and to be visible from the road to which the address applies (either Arcadia Street or the internal roadway);
- f. primary addresses (as allocated in the table above) must be included on the Construction Certificate Plans;
- g. where plans and details are provided to service suppliers, numbers must be in accordance with the above;
- h. The allocated number must be displayed prior to occupation; and
- i. Letterboxes should be visible from the street and clearly numbered according to the address allocated with both unit and street numbers.

## 9. Utility Services

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

## 10. Padmount Substation

In the event that the location of the new substation must be amended, the applicant shall consult with Council regarding the new location. Council must agree to the location of any padmount substation prior to its construction to ensure it is appropriately located.

## PART B - PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

### 11. Section 7.11 Development Contributions

A contribution of \$776,184.24, subject to annual indexation, must be paid to Council towards the provision of public amenities and public services prior to the issue of the Construction Certificate. This amount has been calculated in accordance with Shellharbour City Council's Local Infrastructure Contributions Plan 2019 9<sup>th</sup> Review (Amendment 1) dated 6 June 2022 in the following manner:

- Residential contribution – Precinct 1, Warilla - \$ 776,184.24

Open Space contribution	\$ 239,266.56
Community Infrastructure contribution	\$ 360,988.68
Roads & Traffic Infrastructure contribution	\$ 95,576.52
Drainage contribution	\$ -
Administration contribution	\$ 80,352.48
<b>Total contribution payable</b>	<b>\$ 776,184.24</b>

The contribution amount contained in this condition is the base rate indexed at 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).

Works-in-kind may be considered as a means of offsetting the contribution payable. This will require a formal request to be submitted to Council to be assessed in accordance with Council's Works-in-kind Policy.

## 12. Long Service Levy

The Long Service Levy must be paid prior to the issue of the Construction Certificate for work exceeding a value of \$250,000.00.

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

## 13. Required Design Changes

Prior to the issue of a Construction Certificate, plans detailing the following modifications must be submitted to the Principal Certifier for approval:

- a. The two (2) Crimson Sentry trees located immediately under the awning of the op-shop building must be replaced with two (2) trees with a mature height that does not exceed the ceiling height of the awning;
  - a. a 1.8m high Colorbond (or similar) fence must be provided along the southern property boundary (at no cost to the neighbour). Existing fencing which meets the requirements of this condition may be utilised, where it is in good condition;
  - b. the internal road should be constructed as shared zones, with sufficient spacing at the proposed speed humps for wheelchair access;
  - c. the pedestrian footpath along the Arcadia Street and George Street frontages must be a shared path 2.5m wide;
  - d. four (4) residential car parking spaces located within Basement A must be provided as visitor car parking spaces;
  - e. a minimum of one car parking space per apartment must be allocated; and
  - f. services including water hydrant boosters, air conditioners and mechanical plant equipment are to be suitably screened. This does not include the padmount station.

#### **14. Tree Removal and Offset**

The approved Landscape Plans must be modified to include the following species in 75L containers to off-set (3:1 ratio) the removal:

- a. Nine (9) - *Banksia integrifolia*
- b. Six (6) - *Eucalyptus microcorys*

Documentation demonstrating compliance with this condition must be submitted to the Principal Certifier prior to the issue of the Construction Certificate.

#### **15. Undercover car parking**

There shall be no ventilation (mechanical or otherwise) along the southern façade of the car parks in buildings D, E and F.

#### **16. Vegetation Management Plan Amendment**

The proposed vegetation treatment area located on Lot 202 DP 786257 must be deleted from all plans. An alternative area (minimum area of 354.6m<sup>2</sup>) must be revegetated along the western side of the riparian corridor on Lot 200 DP 786257.

The Vegetation Management Plan (VMP) prepared by Southern Habitat, dated 12 September 2022 shall also be amended to reflect the above. Amended documentation is to be submitted to Council for approval prior to the issue of the Construction Certificate. Documentation demonstrating compliance with this condition must be submitted to the Principal Certifier prior to the issue of the Construction Certificate.

#### **17. Lighting Plan**

A lighting plan must be prepared and submitted to the Principal Certifier for approval. The lighting plan must include the following as a minimum:

- a. In accordance with the requirements of the *SEPP (Housing) 2021*;
- b. lighting should illuminate driveways, pathways, wayfinding signage, building entrances and all communal areas to ensure wayfinding throughout the site; and
- c. lighting colour must be white to minimise visual distortion and increase light distribution.

#### **18. Compliance with Schedule 4 of the State Environmental Planning Policy (Housing) 2021**

Documentation demonstrating compliance with Schedule 4 of the *State Environmental Planning Policy (Housing) 2021* shall be submitted to the Principal Certifier prior to the issue of a Construction Certificate.

#### **19. Footpath Construction**

Prior to issue of a Construction Certificate, documentation must be submitted to the Principal Certifier for approval, confirming the detailed design of the footpaths along George Street and Arcadia Street to meet the suitable access path requirements as set out in clause 93 of the *State Environmental Planning Policy (Housing) 2021*.

Footpath design and specifications must be approved by Council's Asset Team prior to lodgement of a Construction Certificate application. Plans must show the location of the street trees to be planted along George Street and Arcadia Street.

## **20. Compliance with Preliminary Site Investigation**

The recommendations contained in the approved 'Preliminary Site Investigation with Limited Sampling report', prepared by EI Australia, reference no. E24936.E01\_Rev0 dated 12.02.2021 are to be fully complied with including:

- a. Conduct a Hazardous Materials Survey (HMS) of current site structures (prior to site demolition);
- b. a Construction Environmental Management Plan (CEMP) for the excavation, waste classification, and handling of all soils from the site should be developed. The CEMP should be developed in accordance with relevant Shellharbour City Council DCPs and development consent conditions. The CEMP should include provisions for the management of waste soils including, but not limited to:
  - Classification of waste soils for off-site disposal in accordance the EPA (2014) Waste Classification Guidelines; and
  - The assessment of any soil materials proposed for importation to the site to be utilised as backfill (if required)
- c. As acid sulfate soils were identified at the site, an Acid Sulfate Soil Management Plan (ASSMP) should be prepared, with the objective to aid in the management and removal of acid sulfate soils encountered during the development. It is recommended that further delineation testing be undertaken to confirm the extent of ASS at the site; and
- d. a Dewatering Management Plan should be constructed for the site, which outlines proper management procedures relating to the aquifer system and regional groundwater resources. Monitoring procedures regarding groundwater levels, flow and discharge volume, as well as the required measures to minimise risks for exposure of acid sulfate soils and inducing contamination.

Details demonstrating compliance shall be submitted to the Principal Certifier for approval prior to the issue of the Construction Certificate.

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

Prior to the release of a Construction Certificate, a CTMP detailing vehicle routes, number of trucks, access arrangements, impact on pedestrians and traffic control must be submitted and approved by the certifier.

The Plan must include measures to ensure all construction related vehicles are parked and queued on site.

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

## **22. Residential - Waste Management**

General waste, recycling and FOGO waste facilities are to be provided in accordance with the approved Waste Management Plan.

All waste, recycling and FOGO bins are to be stored in the approved waste storage areas. The size of the waste storage areas must be large enough to store the required number of bins, appropriate for the number of units and intended uses of the building.

Details of the Waste Storage Area must be shown on the plans submitted to the Principal Certifier for approval, prior to the issue of the Construction Certificate.

### **23. Op-shop, Neighbourhood Shop and Community Hall - Waste Management**

General waste, recycling and FOGO waste facilities are to be provided in accordance with the approved Waste Management Plan.

All waste, recycling and FOGO bins are to be stored in the approved waste storage areas. The size of the waste storage areas must be large enough to store the required number of bins, intended uses of the premises.

Details of the Waste Storage Area must be shown on the plans submitted to the Principal Certifier for approval, prior to the issue of the Construction Certificate.

### **24. Retaining Walls**

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 Principal 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 legal point of discharge.

Construction of the retaining wall must not compromise the integrity of any existing stormwater, inter-allotment drainage line or other infrastructure. 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.

### **25. Soil and Water Management Plan (SWMP)**

Prior to the issue of the Construction Certificate, the applicant must submit a Soil and Water Management Plan for Principal Certifier approval. 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 in 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 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 stabilized (includes landscaping);
- g. specifies measures 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; and
- j. include measures to prevent the tracking of sediment off the site.

## **26. Driveway Finishes**

The visual impact of the driveway within the property must be minimised by the use of paving materials or coloured concrete. The use of uncoloured concrete as the dominant paving material is unacceptable. Details of these materials and colours are to be submitted to the Principal Certifier for approval prior to issue of the Construction Certificate.

## **27. Car Wash Bay**

One (1) residential visitor space shall serve as a car wash bay for the use of the residents.

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

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

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

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

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

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

## **29. Structural Design of Deep Pits**

All pits deeper than 0.9m must be designed by a certified structural engineer and be in accordance with AS3600-2009. Pits deeper than 1.2m must have galvanised steel step irons (plastic coated black steel step irons will not be accepted) and pits deeper than 1.8m must be reinforced concrete. Step irons at 300mm interval spacing must be provided from the bottom

of pit and the top step must be a minimum 500mm below top surface level. Details shall be incorporated in the detailed drainage design and submitted to the Principal Certifier as part of the Construction Certificate application.

### **30. Pit Grates**

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

### **31. Detailed Drainage Design**

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

- a. be generally in accordance with the Proposed Stormwater Layout, Ref No. Q0200012, C400, C, prepared by JN dated 17.07.2023;
- b. drain to the locations shown on the above concept plan;
- 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 sizes of all pipelines;
- d. be to the satisfaction of the Certifying Authority;
- e. be designed to cater for a 1 in 20 year Average Recurrence Interval storm event;
- f. overflow drainage paths are to be provided and be designed to cater for 1 in 100-year Average Recurrence Interval storm event;
- g. comply with Council's *Shellharbour Development Control Plan* unless variation is specifically noted and approved on DA concept drainage plan; and
- 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.

### **32. Stormwater Discharge to Natural Watercourse**

The stormwater discharge point to the natural watercourse must be protected against erosion. Details are to be submitted and be to the satisfaction to the Principal Certifier prior to the issue of the Construction Certificate.

### **33. Engineer Designed Pavement**

All car parking areas, manoeuvring areas and the access aisle must be paved, drained and marked. The pavement must be designed by a qualified civil engineer and certified to be satisfactory for the expected traffic loadings from a development of this size and type. *AUSTROADS* Guide to Pavement Technology can be used as the design guideline for the pavement design.

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

### **34. Flooding Planning Level Development**

The Flood Planning Level (FPL) (1% AEP + 500mm Freeboard), the 1% Annual Exceedance Probability (AEP) flood level and the Probable Maximum Flood (PMF) Level for the proposed development are as follows:



Proposed development	FPL (m AHD) (1% AEP + 500mm Freeboard)	1% AEP flood level (m AHD)	PMF Level (m AHD)
Building A	3.4	2.9	4.3
Building B	3.4	None	4.2
Building C	3.4	None	4.2
Building D	3.4	None	4.2
Building E	3.4	None	4.2
Building F	3.4	2.9	4.2
Op Shop	3.35	2.85	4.3
Community Hall	3.35	2.85	4.3
Basement Car Park Entry	NA	NA	4.212
Site	3.4	2.9	4.3

The development shall comply with the following restrictions:

- a. Habitable floor levels for Building A shall be equal to or greater than the PMF;
- b. habitable floor levels for other buildings shall be equal to or greater than the FPL;
- c. basement car park entry shall be equal to or greater than the PMF;
- d. all structures to have flood compatible components up to and including the FPL in accordance with Appendix 9 of Shellharbour City Councils Development Control Plan; and
- e. 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 is to be submitted with the Construction Certificate Application.

### 35. Open Car Parking

Vehicles must not cause a nuisance in the PMF event by being caught in flood waters and becoming moving objects. In this regard, vehicle bollards or similar methods of containment are required in areas where the flood velocity and depth exceeds vehicle stability limits. Details of vehicle containment methods are to be certified by a professional engineer with experience hydraulic engineering and provided to the satisfaction of the Principal Certifier.

### 36. 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.

### **37. Slip Resistance - Commercial Retail & Residential Developments**

All pedestrian surfaces in areas such as foyers, public corridors/hallways, stairs and ramps as well as floor surfaces of the wet rooms in any commercial/retail/residential units must have slip resistance classifications, as determined using test methods in either wet or dry conditions, appropriate to their gradient and exposure to wetting. The classifications of the new pedestrian surface materials, in wet or dry conditions, must comply with AS/NZS4586:2004 – Slip Resistance Classifications of New Pedestrian Materials and must be detailed on the plans submitted with the Construction Certificate application.

### **38. Bond – 9 New Street Trees – Seven (7) Arcadia Street, Two (2) George Street**

A street tree bond deposit in accordance with the Council's *Fees and Charges* must be lodged with Council prior to the issue of the Construction Certificate, to ensure that all new street trees are maintained for a six-month period following the issue of the Occupation Certificate.

### **39. Street Tree Inspection Fee**

The developer must lodge with Council an inspection fee in accordance with Council's *Fees and Charges* prior to the issue of the Construction Certificate for:

- a. Street tree inspection prior to occupation of the development; and
- b. street tree inspection following completion of the maintenance period.

### **40. Appointment of a Project Arborist**

Appointment of a Project Arborist with a minimum AQF Level 5 qualification is required. A letter with the appointed arborist's name, details and relevant qualification is to be submitted to Council prior to issue of the Construction Certificate.

The Project Arborist will be responsible for ongoing arborist services throughout the construction (prior, during and post). These services include (but are not limited to) sign off of the installed tree protection measures prior to construction, maintenance during construction, onsite supervision of works within the tree protection zone (TPZ) and structural root zone (SRZ) of trees during works, providing on ground advice during works and sign off on the tree health and protection measures once all works have ceased.

Documentation of each milestone within a stage (prior, during and post) of the project is required and must be submitted to Council. All documentation is to contain a summary of works supervised by the Project Arborist, site photos and a compliance statement of works undertaken.

A copy of the Australian Standard AS4970-2009 Protection of trees on development sites is to be available on site at all times for reference.

### **41. Appointment of a Project Ecologist**

Appointment of a suitably qualified Project Ecologist is required. A letter with the appointed ecologist's name, details and relevant qualification is to be submitted to Council prior to issue of a Construction Certificate.

The Project Ecologist will be responsible for ongoing ecologist services throughout the construction works (prior, during and post). These services include (but are not limited to) pre clearance inspections, consultation regarding the locations of the nest boxes and bat boxes to be installed (if required), onsite meetings, clearance supervision and marking trees for the nest box installation and follow up reporting.

Documentation of each milestone within a stage (prior and during) of the project is required and is to be submitted to Council. All documentation is to contain a summary of works supervised by the Project Ecologist, site photos and a compliance statement of works undertaken.

#### **42. Project Arborist Stormwater Letter**

The Project Arborist must assess all possible TPZ and SRZ encroachments of the stormwater drainage infrastructure for the trees to be retained, especially those located within the riparian corridor. The assessment is to be in accordance with *AS4970-2009 Protection of trees on development sites*. The following actions are to be undertaken based on the findings of the assessment:

- If a minor encroachment (AS4970-2209) is proposed, then the works are to be completed under the supervision of the Project Arborist as detailed in Condition '*Project Arborist Supervision*' and as per *AS4970-2009 Protection of trees on development sites*.
- If a major encroachment (AS4970-2009) is proposed, then the stormwater layout is to be rerouted so that only a minor encroachment (AS4970-2009) or no encroachment within the TPZ is proposed. Root mapping may be required, at the discretion of the Project Arborist.

The Project Arborist is to submit the assessment and amended stormwater layout (if required) to Council and reviewed by the Environment team for approval prior to the issue of the Construction Certificate. Documentation demonstrating compliance with this condition must be submitted to the Principal Certifier prior to the issue of the Construction Certificate.

#### **43. Stormwater Plan Amendment**

The approved 'Proposed Stormwater Layout' prepared by JN, drawing no Q0200012, C400, C dated 17.07.2023 must be amended to satisfy the approved BASIX Certificate commitments. The plan must also incorporate the outcome of all design changes detailed in Condition 41 (if required).

As outlined in Condition 41, root mapping may be required (at the discretion of the Project Arborist) to determine the viable retention of trees located within the riparian corridor.

The plan is to be submitted to Council for approval prior to the issue of the Construction Certificate.

#### **44. Substation & Visual Impact**

Any substation must be screened from all street frontages and public places by the use of screen enclosures and/or landscaping. Screening measures must not compromise the requirements of the electricity supplier. The substation and screening must be contained wholly within the property boundary. Details must be submitted with the Construction Certificate application.

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

#### **45. Erosion & Runoff Controls**

Before work commences, 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.

#### **46. Public Liability**

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

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

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

To lodge the application, the following information is required:

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

#### **48. Dilapidation Report**

Before any site work commences, a dilapidation report must be prepared by a suitably qualified engineer detailing the structural condition of all dwellings that share a boundary along the southern interface, structures or works and public land, to the satisfaction of the principal certifier

Where access has not been granted to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and demonstrate, in writing, to the satisfaction of the principal certifier, that all reasonable steps were taken to obtain access to the adjoining properties.

No less than 14 days before any site work commences, adjoining building owner(s) must be provided with a copy of the dilapidation report for their property(ies) and a copy of the report(s) must be provided to council (where council is not the principal certifier) at the same time.

#### **49. Tree Retention and Removal**

Prior to the commencement of any demolition, excavation or construction works on site, the following tree protection measures must be put in place and maintained during the course of construction to prevent damage to trees retained within the riparian corridor.

- a. Protection fencing of 1.8m high chain wire mesh supported by robust posts must be installed in accordance with section 4.3 of the Australian Standards AS4970-2009 Protection of trees on development sites;
- b. signage must be erected on the individual fence enclosures with the following words clearly displayed: "TREE PROTECTION ZONE, DO NOT ENTER.";
- c. no development or associated activity is permitted within the fenced tree protection zone for the duration of works subject to this consent. This includes vehicular or pedestrian access, sheds, washout areas, excavations, backfilling, installation of services (including stormwater), removal of top soil, construction laydown areas, stockpiling of soil or building materials; and
- d. where site access/egress is required over the roots of trees identified for retention and protection, provide hardwood rumble boards over a 200mm thick layer of wood chip.

All tree protection measures listed above is to be signed off by the Project Arborist.

#### **50. Project Ecologist - Preclearance Survey**

The Project Ecologist is required to complete a preclearance survey prior to the removal of any trees or vegetation on site.

Trees must also be inspected to assess the presence of any hollows, nests or potential fauna habitat prior to weed control treatment and/ or removal.

Any native fauna discovered prior to commencement of works, must be relocated under the supervision of the Supervising Ecologist in accordance with relevant guidelines and licences required in accordance with the *Biodiversity Conservation Act 2016*.

The Project Ecologist is to document the above as per Condition 'Appointment of a Project Ecologist'.

#### **51. Vegetation Management Plan**

As per section 6.2 of the Vegetation Management Plan (VMP) prepared by Southern Habitat and dated 12 September 2022, Task 1 is to be completed and notification is to be submitted to Council for approval prior to commencement of works.

#### **52. Soil and Water Management Plan Implementation (SWMP)**

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

#### **53. Structural Details**

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

- a. Structural engineer's design for all reinforced concrete footings and slabs;
- b. structural engineers design for all structural steel beams, framing and connections;

- c. roof truss and bracing details, and
- d. manufacturer's specifications for any patented construction systems.

#### **54. 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 Council 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.
- g. A Community Communication Strategy which details timing for the works and measures to reduce impacts on the local community including contact details, complaints resolution and handling procedures.

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

#### **55. Hours of Work During Building Work**

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

#### **56. Demolition - SafeWork New South Wales, Australian Standard 2601 & Work Health & Safety Act 2011**

All demolition work must:

- a. Be carried out in accordance with the requirements of SafeWork NSW;
- b. be carried out in accordance with the Work Health & Safety Act 2011;
- c. be carried out by a SafeWork NSW licensed contractor where demolition work involves the removal of any materials containing asbestos; and
- d. be carried out in accordance with the provisions of *AS 2601-2001: The Demolition of Structures (or subsequent edition/s)*.

#### **57. 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.

## **58. Maintenance of Soil and Water Management Plan (SWMP)**

The soil and water management controls must be maintained at all times during each stage of the development 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 are maintained clear of sediment at all times.

Note: 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.

## **59. Imported Fill Material**

Any imported fill to be used on site must be:

- a. VENM (Virgin Excavated Natural Material) classified as such in accordance with the Waste Classification Guidelines, Part 1: Classifying Waste (EPA 2014); or
- b. ENM (Excavated Natural Material) meeting the requirements of the Excavated Natural Material Exemption 2014, and compatible with the existing soil characteristics of the site; or
- c. Coal Wash that is in accordance with the Coal Washery Rejects Exemption 2014 that is permitted to be used as fill material; or
- d. Any other waste derived material the subject of a Resource Recovery Exemption under Part 9, Clause 91 and 92 of the *Protection of the Environment Operations (Waste) Regulation 2014*.

Where imported fill material is subject to the conditions of the exemption, the proponent is to demonstrate consistency with the exemption by a verification report to the Principal Certifying Authority prior to the issue of any Construction Certificate.

Excavated material from the site can only be reinstated when supported by National Association of Testing Authorities testing to confirm National Environment Protection Measure suitability for the proposed land use and Managing Land Contamination, Planning Guidelines SEPP 55-Remediation of Land (1998, NSW Government).

Coal Washery Rejects Exemption 2014 states the consumer can only apply Coal Washery Rejects to land where it is not applied in or beneath water, including groundwater. Coal wash must not be applied below the upper bank of any riparian area.

Any waste derived material the subject of Resource Recovery Exemption received by the development site must comply with the conditions of the EPA exemption and be accompanied by documentation as to the material's compliance with the exemption conditions and must be provided to the Principal Certifying Authority on request.

The intent of this requirement is to ensure that imported fill is of an acceptable standard for environmental protection purposes.

## **60. Unexpected Finds**

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 Planning and Environment must be contacted immediately to determine an appropriate course of action in line of relevant legislation.

Should any contamination or suspect material be encountered during site preparation, earthworks, 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 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. Retaining Wall on Boundary**

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

## **62. 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 the Shellharbour Engineering Code requirements.

The Certifying Authority must arrange for a satisfactory inspection by Council prior to backfilling. At least one (1) working days' 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*.

## **63. Driveway and Layback from Kerb to Property Boundary**

A standard industrial 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 minimum width of 6m;
- c. not interfere with the existing public utility infrastructure;
- d. be located 500mm clear of all drainage structures and 2m from the 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.

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

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

#### **65. Redundant Vehicular Layback**

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

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

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

Maintenance must include but is not limited to ensuring:

- a. All sediment fences, sediment traps and socks are properly placed and are working effectively; 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.

#### **67. 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.

#### **68. Project Ecologist Supervision**

Any native fauna discovered during works must be relocated under the supervision of the Project Ecologist in accordance with relevant guidelines and licences required in accordance with the Biodiversity Conservation Act 2016.

Therefore, if native fauna is found, all works must cease until the Project Ecologist is on site.

#### **69. Protection of Native Fauna**

Measures to minimise risk to native fauna during construction must be implemented including:

- Inspecting in and around all vehicles and machines to ensure no native fauna is present prior to turning on or recommencing work; and
- for any injured wildlife a local vet or South Coast Wildlife Rescue on 0418 427 214 are contacted immediately.

## **70. Removal of Trees**

Only the trees indicated in the Arboricultural Impact Assessment Addendum prepared by Moore Trees Consulting Arborist dated 11 August 2023 shall be removed as part of the proposed works. Tree removal must be completed by an arborist with a minimum AQF Level 3 qualification in accordance with the relevant Australian Standards.

No additional trees are to be removed, pruned or otherwise damaged. If the tree/s identified for retention above are damaged or destabilised during construction, then works must cease and Council's Environment team must be contacted.

## **71. Project Arborist - Tree Protection**

All trees within the riparian corridor are to be retained except for Trees 31, 32 & 33 as outlined within the Arboricultural Impact Assessment Addendum prepared by Moore Trees Consulting Arborist dated 11 August 2023. Therefore, no works (except for the stormwater works once approved by Council as per Condition '*Project Arborist Stormwater Letter*') are to be completed within the tree protection zone (TPZ) or structural root zone (SRZ) of the trees within the riparian corridor.

As per section 20.8.6 of the Shellharbour Development Control Plan 2013, the Project Arborist is to complete three (3) site inspections during works, in order to verify that retained trees have been correctly retained and protected as per AS4970-2009 Protection of trees on development sites.

Therefore, the Project Arborist is required to complete these inspections and provide documentation to evidence the maintenance of these measures and include an ongoing assessment of tree health. The documents are to be submitted to Council prior to issue of the Occupation Certificate and are to be completed as per Condition 'Appointment of a Project Arborist'.

If the tree/s identified for retention above are damaged or destabilised during construction then works must cease and Council's Environment Team must be contacted.

## **72. Project Arborist Supervision**

All approved works to be completed within the TPZ and SRZ of the trees to be retained are to be completed under the supervision of the Project Arborist. This includes the outcome of the stormwater works detailed in Condition '*Project Arborist Stormwater Letter*' (once approved by Council). No additional works are to be completed within the TPZ/SRZ of trees to be retained.

If the tree/s identified for retention above are damaged or destabilised during construction then works must cease and Council's Environment Team must be contacted.

The Project Arborist is to document all supervised works as outlined in Condition Appointment of a Project Arborist. The document is to be submitted to Council prior to issue of the Occupation Certificate (OC).

### **73. Vegetation Management Plan**

Implementation of the approved Vegetation Management Plan (VMP) as detailed in Condition 'Vegetation Management Plan' is to commence after issue of Construction Certificate.

During Construction Works (which is to include the primary and secondary stages of the VMP), six-monthly progress reports are to be prepared by a suitably qualified person and submitted to Council. Council may request site inspections to observe progress of VMP implementation

### **74. Storage of Materials**

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

### **75. 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. Australian Height Datum must be used.

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

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

### **77. Cut/Fill**

The cut and fill areas must:

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

### **78. 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

### **79. Protection Fencing**

The vegetation/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.

## **80. Records of Disposal**

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

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

### **81. Occupation Certificate**

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

### **82. Survey Certification**

A survey certificate, signed by a Registered Surveyor, shall be submitted certifying that all habitable buildings have a place of refuge above the PMF level in accordance with the approved plans.

### **83. Flood Risk Signage**

Signage must be provided in the basement carpark to Building A 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.

### **84. Flood Emergency Response Plan**

Prior to the issue of an Occupation Certificate, a Flood Emergency Response Plan should be prepared by a practicing engineer with experience in Floodplain Risk Management, that details:

- a. Local flood levels, depths, duration, timing, extents, building floor levels and their relationship to local flood levels;
- b. closest PMF refuge areas and safe evacuation routes (both internal and external to site);
- c. possibility of over floor flooding and expected depths;
- d. possibility of local roads being closed due to flooding;
- e. the need and capability for occupants to wade out or use a vehicle to escape rising flood water;
- f. access and egress availability for emergency services;
- g. consideration of local Emergency Plans and Council adopted Flood Study recommendations; and
- h. emergency service contact information (SES, Police, Ambulance, Hospital etc.).
- i. the Flood Emergency Response Plan shall be provided to all residents prior to occupation;
- j. The Flood Emergency Kit must be prepared for each safe refugee area . The kit must be located within the refugee area or above the PMF level, and made conspicuous and easily accessible to occupants and visitors at all times. The Kit must include but not be limited to the following items as minimum:

- The Flood Emergency Response Plan.
- Emergency service contact information (SES, Police, Ambulance, Hospital etc).
- Provision of emergency communications ie battery operated AM/FM radio and Two-way radios etc.
- Food, water, First Aid, medical supplies, batteries, chargers and other essential supplies for all occupants and visitors if a stay-in-place evacuation strategy is advised by the SES. These provisions are to be consistent with the Red Cross Guidelines for Sheltering in Place.

## **85. 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.

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

## **86. Footpath Completion**

Prior to the issue of any Occupation Certificate, the pedestrian footpaths along Arcadia Street and George Street shall be completed in accordance with the requirements of clause 93 of the *State Environmental Planning Policy (Housing) 2021* and as per the specifications approved by Councils Asset Team. Evidence demonstrating that the footpath has been inspected and completed to Council's satisfaction shall be submitted with the Occupation Certificate documentation.

## **87. Compliance with Schedule 4 of the State Environmental Planning Policy (Housing) 2021**

Documentation demonstrating compliance with Schedule 4 of the *State Environmental Planning Policy (Housing) 2021* shall be submitted to the certifier prior to the issue of an Occupation Certificate.

## **88. Community Hall Completion**

The community hall building is to be completed prior to the issue of any Occupation Certificate for the development. The community hall is to be available to residents when the housing is ready for occupation.

## **89. Restriction on Use of Land – SEPP (Housing) 2021**

A Restriction as to User shall be created pursuant to Section 88B of the *Conveyancing Act 1919*. The Restriction requires that the site be used for the purpose of seniors housing being in-fill self-care housing (independent living units) with the Restrictions including the following wording:

- a. The lot burdened shall not be occupied by any other person other than:
  - (a) People who are at least 60 years of age; and
  - (b) people who have been assessed as being eligible to occupy housing for aged persons provided by a social housing provider.

The terms referenced above are as defined in the *State Environmental Planning Policy (Housing) 2021*.

Council is to be nominated as the Authority to release, vary or modify this covenant. This Restriction shall burden the entire site and benefit Council.

The Restrictions as to User shall be registered on the title of the land, prior to the issue of any Occupation Certificate for the development (Interim or Final Occupation Certificate).

## **90. BASIX**

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

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

Prior to the issue of an Occupation Certificate, Works As Executed Plans must be submitted to the Principal Certifier 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.

## **92. 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 including waste disposal dockets or photographic evidence, must be retained by the Principal Certifier.

## **93. Waste Collection**

Indemnity must be provided for Council's waste collection contractor prior to the issue of any Occupation Certificate for the development. The applicant is to contact Council's Waste Contracts Manager to obtain the relevant forms in this regard.

## **94. Landscape Certification**

All landscaping works must be maintained for 12 months following the issue of the final occupation certificate. All proposed and existing trees, shrubs, grasses and groundcovers must be maintained and protected for this period. Any plants found faulty, damaged, diseased or dead shall be replaced with the same species in the same sized container within one month with all costs borne by the owner.

A Final Landscape Inspection must be carried out and a certificate issued by the Landscape Designer or Landscape Architect via the Principal Certifier to the issue of an Occupation Certificate. This certificate is required to ensure that all tree protection measures, landscaping works, replacement tree planting and street tree planting have been constructed in accordance with the approved Landscape Plans and that they are compatible with all relevant Civil, Stormwater and Architectural plans.

## **95. Project Arborist – Sign off Inspection**

Once all demolition, construction and landscaping works have ceased and all tree protection measures have been removed, the Project Arborist is required to provide certification of the

current health and condition of the trees to be retained prior to occupation.

## **96. Vegetation Management Plan**

Practical completion of the Primary and Secondary stages of the Vegetation Management Plan (VMP) must be achieved prior to issue of an Occupation Certificate, as documented by the six-monthly reporting. A Practical Completion site inspection is to be arranged with representatives of the Proponent, the Contractor, and Council Environment team. The inspection is subject to Council's Fees and Charges.

The Maintenance phase of the Vegetation Management Plan is to commence after the completion of all revegetated activities and continue for a period of three (3) years, with annual reporting to be submitted to Council. At the completion of the Maintenance Stage, a Final Report is to be prepared by a suitably qualified person and submitted to Council, and a final site inspection is to be arranged with representatives of the Proponent, the Contractor, and Council Environment team. The inspection is subject to Council's Fees and Charges.

## **97. New Street Tree Planting – Seven (7) to Arcadia Street and two (2) to George Street**

Nine (9) trees must be planted on the Council footpath reserve, as follows:

- a. 45 Lt *Tristanopsis laurina* 'Luscious';
- b. two (2) 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; and
- e. trees must be setback a minimum 900mm from the back of the kerb or where a footpath exists and 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.

## **98. Street Tree Planting Distances**

The following clearances are required in relation to the installation of the street trees:

- a. Minimum two (2) metres either side of a driveway or vehicular crossing;
- b. minimum two (2) metres from services and signage;
- c. minimum one point five (1.5) metres from a stormwater outlet/pit;
- d. minimum three (3) metres from street light posts; and
- e. minimum fifteen metres from bus stop, pedestrian crossing and traffic signals.

## **99. 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.

## **100. Street Tree Maintenance Period**

The newly planted street trees will be maintained for a period of 6 months from the date of the issue of the occupation certificate to ensure the health of the tree has not been jeopardised throughout the construction period.

## **101. Fence Installation**

The fencing around the perimeter of the site and located in accordance with the approved landscape plan must be installed prior to the issue of an Occupation Certificate.

## **102. 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.

## **103. Signage for Visitor Parking**

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

## **104. Residential Operational Waste Management Plan**

An Operational Waste Management Plan for the residential development which addresses all operational waste management procedures to be employed must be prepared and approved by the Principal Certifier prior to the issue of the Occupation Certificate.

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

- a. The collection of waste, recycling and FOGO must only occur between 7.00am and 8.00pm weekdays, to avoid noise disruption to the surrounding area;
- b. waste/recycling/FOGO collection must be collected on-site by a private waste collection company;
- c. waste collection vehicles must enter and leave the site in a forward direction;
- d. at no time are any residential bins be presented the kerbside of Arcadia Street or George Street;
- c. the residential bin storage areas must be in compliance with approved plans;
- e. requirement that all bins must be cleaned on a regular basis by building management;
- f. practical measures are also to be taken to ensure that odour emission from the garbage storage area does not cause offensive odour as defined under the provision of the *Protection of the Environment Operations Act, 1997* (as amended); and
- h. the Waste Management Plan - Operational must be available to the private waste collection company, all residents and Warrigal Care management.

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

Not Applicable

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

### **105. BASIX Commitments**

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

### **106. 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 tree/s remain in a satisfactory condition. In the event that any street tree/s 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 tree/s.

### **107. Vegetation Management Plan**



The Maintenance phase of the Vegetation Management Plan is to commence after the completion of all revegetated activities and continue for a period of three (3) years, with annual reporting to be submitted to Council. At the completion of the Maintenance Stage, a Final Report is to be prepared by a suitably qualified person and submitted to Council, and a final site inspection is to be arranged with representatives of the Proponent, the Contractor, and Council Environment team; the inspection is subject to Council's Fees and Charges.

#### **108. Flooding Storage of Materials**

The Probable Maximum Flood (PMF) for this site is RL 4.3 AHD

During Occupation, at no time shall materials be stored externally which may cause pollution or be potentially hazardous during a PMF event.

#### **109. Allocation of Visitor Parking**

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.

#### **110. Waste – Responsibility of Warrigal Care or Owners Corporation**

The Owners Corporation or Warrigal Care shall be responsible for presenting waste, recycling and FOGO bins for collection, and returning to the waste storage area of each building as soon as practicable after they have been serviced.

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

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

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

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

#### **112. Restriction on Occupation**

For the ongoing life of the development, the development must only be occupied and provide accommodation for senior's or people who have been assessed as being eligible to occupy housing for aged persons provided by a social housing provider.

The use of the site is approved for seniors housing being in-fill self-care housing (independent living units).

The definition of seniors must be in accordance with Clause 82 of the *State Environmental Planning Policy (Housing) 2021*.

#### **113. Community Hall**

- a. For the ongoing life of the development, the community hall must be used primarily in association with the seniors living use of the site and is not permitted to be utilised by persons who are not residents or directly associated with the residents on the site, unless they are a not for profit organisation and do not negatively impact the amenity of the

neighbourhood because of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise;

- b. the community hub must not be used between the hours of 10pm and 7am;
- c. music and other amplified sound, including recorded or broadcast programmes or the like, played on the premises, shall be controlled so as not to cause any distraction or disturbance to nearby or adjacent residents, pedestrians or motorists; and
- d. comply with the approved Plan of Management.

#### **114. Graffiti Management**

The owner/manager of the site is responsible for the removal of all graffiti from the buildings, retaining walls and fences within 48 hours of its application.

#### **115. Neighbourhood Shop**

This approval grants consent for the land use of the tenancy labelled as neighbourhood shop as a neighbourhood shop as defined in *Shellharbour Local Environmental Plan 2013*. The definition is as follows:

*“neighbourhood shop means premises used for the purposes of selling general merchandise such as foodstuffs, personal care products, newspapers and the like to provide for the day-to-day needs of people who live or work in the local area, but does not include neighbourhood supermarkets or restricted premises.”*

This consent does not include the fit-out of neighbourhood shop. The first use of the tenancy is to be the subject of a separate approval.

#### **116. Opportunity Shop**

This approval grants consent for the use and fit-out of an opportunity shop (op-shop) meaning a shop selling second-hand goods for charitable fund.

The approved hours of operation shall be restricted to the following:

<b>Day of the Week</b>	<b>Hours of operation</b>
Monday to Friday	8:30am to 5:00pm
Saturday and Sunday	8:30am to 5:00pm
Public Holidays	Closed

The use of the premises as an opportunity Shop must not be changed to any other use without the prior approval from Council.

#### **117. Signage**

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

#### **118. Lighting**

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

#### **118A Landscaping**

All landscaping on site is to be maintained in perpetuity.

## **PART H – OTHER APPROVALS**

All other conditions remain as per draft conditions of consent provided by Council and uploaded to the ePlanning Portal on 22 August 2023