

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

<b>Panel Reference</b>	<b>PPSSTH-24</b>
<b>DA Number</b>	<b>DA0501/2019</b>
<b>LGA</b>	<b>Shellharbour City Council</b>
<b>Proposed Development</b>	Residential Flat Building containing 116 apartments and basement parking.
<b>Development Characterisation</b>	<b>Residential Flat Building</b>
<b>Location</b>	Lot 9009 DP1254656 (formally known as Lot 1091 DP 1254727) Harbour Boulevard, Shell Cove (Precinct B2)
<b>Applicant/Owner</b>	Australand Corporation (NSW) Pty Ltd trading as Frasers Property Australia (Applicant) Shellharbour City Council (landowner)
<b>Date of DA lodgement</b>	24 September 2019
<b>Public Notification Period</b>	11 October 2019 – 11 November 2019
<b>No. of Submissions</b>	One
<b>Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011</b>	<b>Clause 3 – Council related development over \$5 million</b> Development that has a capital investment value of more than \$5 million as the council is the owner of any land on which the development is to be carried out. The proposed development has a CIV of \$78,970,341.
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• SEPP - (State and Regional Development) 2011 – Council related Development over \$5 million</li> <li>• SEPP (Coastal Management) 2018</li> <li>• SEPP 55 – Remediation of land</li> <li>• SEPP 65 – Design Quality of Residential Apartment Development.</li> <li>• SEPP (Building Sustainability Index – BASIX) 2004</li> <li>• Shell Cove Boat Harbour Concept Plan 07_0027 MOD 1</li> <li>• Shellharbour Local Environmental Plan 2013</li> <li>• Shell Cove Design Guidelines for Medium Density Housing and Apartments – Precinct B2 and C2.</li> <li>• Shellharbour Development Control Plan 2013</li> <li>• Likely impacts;</li> <li>• Site suitability;</li> <li>• Any submissions;</li> <li>• Public Interest.</li> </ul>
<b>Report prepared by</b>	Madeline Cartwright, Senior Development Assessment Officer
<b>Signature</b>	
<b>Report Endorsed by</b>	Grant Meredith, Group Manager City Development
<b>Signature</b>	
<b>Report endorsed by</b>	Melissa Boxall, Director Community and Customers
<b>Signature</b>	
<b>Date of report</b>	09/07/2020

**Attachment 1 – Recommended Conditions**

**Attachment 2 – Proposed Plans**

**Attachment 3 – Site Photos**

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

**Attachment 5 – Design Review Advisory Panel Comments**

**Attachment 6 – Concept Approval Compliance Table**

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

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

**Attachment 9 – Guidelines for Medium Density Housing and Apartments - Precinct B2 and C2 Compliance Table**

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

**Attachment 11 – Shadow Diagrams**

**Attachment 12 – Cross Ventilation Plans**

**Attachment 13 – Storage Plans**

**Attachment 14 – Referrals Undertaken**

## 1. Purpose of this report

The purpose of this report is to seek the determination from the Planning Panel (Panel hereafter) for a development application (DA) submitted to Shellharbour City Council (Council) for the construction of a residential flat building consisting of two buildings.

Building A (main building; crescent shape) will be six (6) storeys high and building B (smaller rectangular building) four (4) storeys high containing a total of 116 residential apartments and associated amenities including swimming pool, landscaping and basement parking. **Figure 1** below details the location of the site in the context of the Shell Cove area.



**Figure 1** - Location map

The application is being referred to the Panel due to the proposal having a capital investment value of \$78,970,341. Council is the owner of the land on which the development is to be carried out and the Shell Cove Project is a collaboration between Shellharbour City Council and the developer, Frasers Property Australia.

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

Council has undertaken a review of this assessment report and attachments by an independent planning consultant (TCG Planning) to ensure that all relevant legislation and aspects of the assessment were included. The review has identified that the overall assessment as satisfactory, subject to the recommended amendments which have been actioned.

The application was lodged as integrated development under section 4.8 of the *Environmental Planning and Assessment Act 1979* as requiring a controlled activity approval under the *Water Management Act 2000*. The application was referred to the Natural Resources Access Regulator (NRAR) and confirmation was received that a controlled activity approval was not required and no further assessment by NRAR necessary.

## **2. Background to the Development Site**

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

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

## **3. Description of Development**

The proposed development comprises of:

Two residential flat buildings with 116 apartments:

- a. Construction and use of a six (6) storey building (Building A) accommodating:  
85 residential apartments with an indicative mix of:
  - 2 x 1-bedroom apartments (2%)
  - 24 x 2-bedroom apartments (20%)
  - 59 x 3-bedroom apartments (51%)
- b. Construction and use of a four (4) storey building (Building B) accommodating:  
31 residential apartments with an indicative mix of:
  - 15 x 1-bedroom apartments (13%)
  - 16 x 2-bedroom apartments (14%)
- c. A total of 220 car parking spaces comprising a mix of:  
166 residential car parking spaces;  
54 visitor car parking spaces;  
With 10 parking spaces within the design to be accessible; and
- d. 2,170m<sup>2</sup> of landscaped communal open space.

The site area has a total of 5,755sqm. The proposal does not include subdivision. The subject site is currently vacant.

**Figure 2** shows the location of the site in relation to the surrounding precinct.



**Figure 2** - Location plan

The site sits to the south east of the Town Centre (Precinct D) of the Shell Cove development with residential precincts B2 and C2 to the south and west. The site has frontage to Promontory Drive to the north, east and western boundaries and Road MC24 (Quayside Avenue) on the southern boundary. The proposed development is oriented to the north-east to provide views towards the boat harbour.

The site was created by DA0287/2018 and approved by the Panel in January 2020. This DA also included relevant roads, infrastructure and drainage. The subject proposal is the first development within the B2, C2 precinct.

Lot 9009 DP1254656 is an updated lot and DP reference as the registration occurred post lodgement of the application.

#### 4. Concept Approval

The Concept Approval (Mod 1) was accompanied by a masterplan that sought to establish the characteristics for development within each precinct. The proposed development is consistent with the Concept Plan Land Uses by providing apartments in Precinct B2 as identified in the indicative housing typologies plan taken from page 19 of the Shell Cove Boat Harbour Precinct Section 75W Modification dated 8/8/2017 written by Ethos Urban, **Figure 3** below.



**Figure 3** – Indicative Housing Typologies Plan (application site outlined in red)

This proposal is the first development within Precinct B2 and proposes 116 apartments. The maximum dwelling yield for this precinct is 150 dwellings. This leaves 34 dwellings for the remainder of precinct B2, which is identified in the Indicative Housing Typologies Plan as townhouses (orange in **Figure 3**). It is considered that this remaining number of dwellings is satisfactory given the remaining lots within Precinct B2. **Table 1** below details the summary of dwelling yields within the broader boat harbour precinct.

Precinct	Concept Plan (Mod 1)	Approved Dwelling Numbers	Balance remaining
	Dwelling Range (total maximum 1566)	Dwellings	Maximum Quantity of Dwellings
A1	1 – 50	29	1 – 21
A2	50 - 100	29	50 - 71
B1 – C1	250 - 300	105	55 - 195
B2	100 - 150	None (116 proposed as part of this application)	100 – 150 (balance of 34 pending approval of this application)
C2	100 - 150	None	100 - 150
D	200 – 250	45	155 - 205
E	250 – 300	15	235 - 375
F + G	250 – 300	None	250 - 300
H	150 – 200	None	150 - 200
<b>Total</b>	<b>1,566</b>	<b>223</b>	<b>1,343</b>

**Table 1** – Summary of dwelling yields within the broader boat harbour precinct.

The indicative height plan included in the Shell Cove Boat harbour Precinct Section 75W Modification on (page 20) indicates that the indicative height in the portion of Precinct B2 to which this proposal relates permits a maximum of 6 storeys in height (22 metres). The proposed development will comply with these height restrictions. **Figure 4** below shows the indicative height plan with heights added to the legend for clarity.



**Figure 4** – Indicative Height Plan (application site outlined in red)

**Attachment 6** contains a compliance table reviewing this proposal against the Terms of Approval, 'Further Assessment Requirements' and Statement of Commitments. Overall, the development is considered to be generally in compliance with the Concept Approval.

The proposed development includes one six storey building and one 4 storey building. The proposed materials are consistent with the Design Guidelines for Precinct B2 and offer a contemporary interpretation of the coastal palette. The proposed materials and colours have been used to differentiate building elements and articulate the façade. The design's consistency with the Concept Plan is demonstrated within the Architectural Drawings included within **Attachment 2**.

## **5. Panel Briefing Comments**

A Southern Regional Planning Panel Briefing meeting was held at Shellharbour City Council Offices on 3 March 2020. The following key issues were discussed by the Panel and responded to accordingly:

**i. Strategic framework including modifications to the concept plan and urban design guidelines and compliance with concept approval,**

The strategic framework of the application has been discussed in detail within **Attachment 4** Background to Planning Framework for Shell Cove Boat Harbour and Marina Precinct.

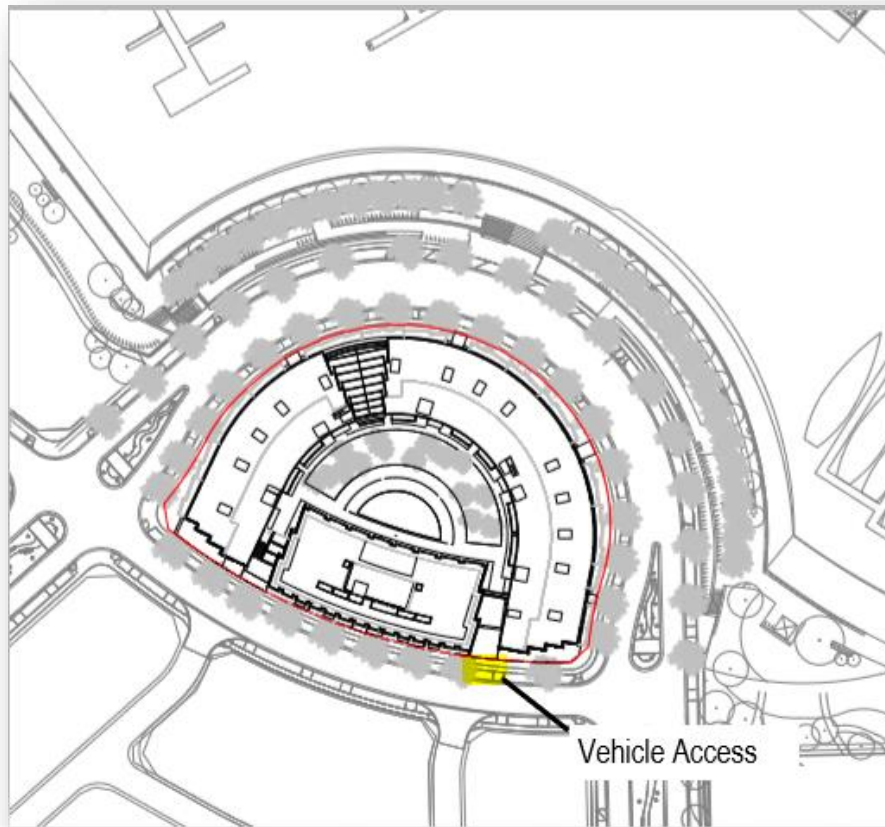
**ii. Performance of building against the Apartment Design Guidelines – non compliance to be addressed in detail,**

**Section 8(v)** of this report and **Attachment 7** details how the development complies with SEPP 65 and the Apartment Design Guidelines (ADGs), with all non-compliances addressed in detail.

The identified non compliances of the ADGs have been suitably justified and the design outcome is considered satisfactory.

**iii. Access to visitor parking,**

The proposed residential development comprises 116 apartments with 220 parking spaces (including 54 visitor spaces) located within two levels of basement parking. Access to the car park is provided from Quayside Avenue (road to the south of the site) via a six metre wide driveway. **Figure 5** shows vehicle access highlighted.



**Figure 5** - Vehicle Access Location Plan

This width complies with the requirements of Australian Standard 2890.1-2004 – Parking Facilities Off Street for a Category 2 driveway providing access to a residential development with less than 300 parking spaces and access from a local road. The driveway also provides access to the on-site service area (for waste collection, deliveries and removals) which has been provided within the building footprint and supported by a turntable.

Based on Transport for New South Wales (TfNSW) guidelines, the proposed residential development would have peak traffic generations of some 60 vehicles per hour (two way) in the AM peak hour and some 40 vehicles per hour (two way) in the PM peak hour. A proportion of these would be visitor vehicles (typically some 10% in the AM peak hour and some 15% in the PM peak hour). This represents some six vehicles per hour (two way, split between three vehicles entering and three vehicles exiting). Access to the basement car park will be controlled by a roller shutter located some 12 metres within the site.



**Figure 6** - Roller Door and Intercom Location

Residents will be provided with a remote control to open the roller shutter. For waste collection, strata management would provide the waste contractor with a remote control to allow the driver to access to the car park.

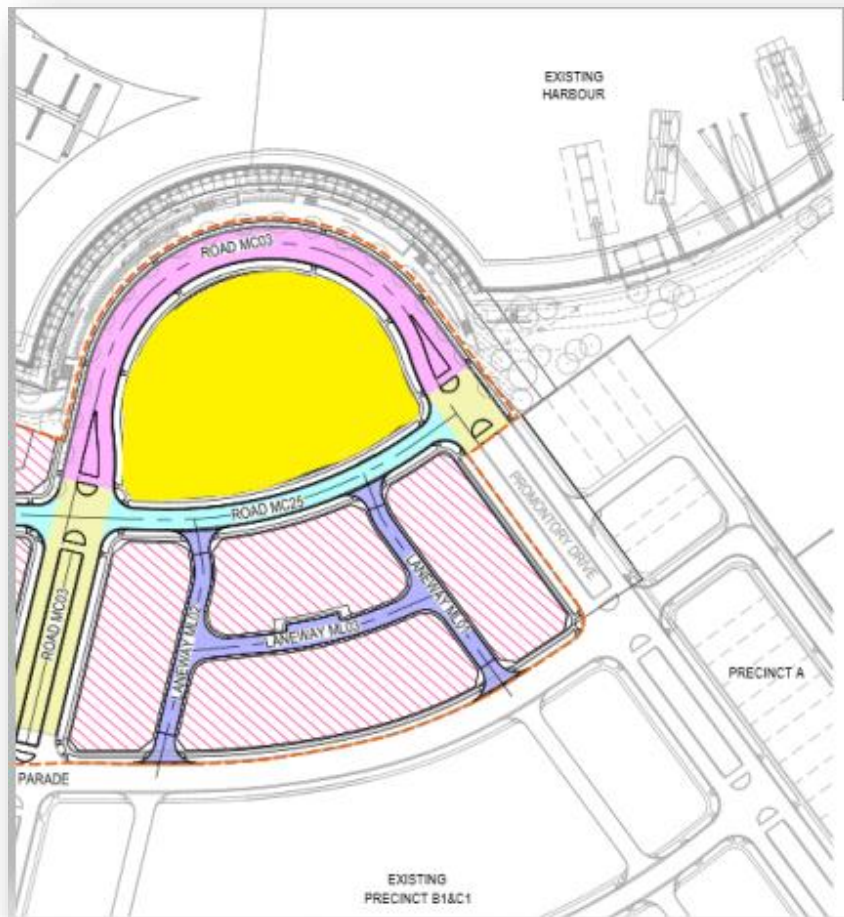
For other vehicles to access the car park (such as visitors and deliveries), the vehicle would pull into the driveway (noting there is queuing for two vehicles within the site) and use an intercom (located on the northern side of the driveway). The driver would exit the vehicle and use the intercom to ask the resident to open the roller shutter. If the vehicle has a passenger, the passenger could use the intercom without having to exit the vehicle. There would be no safety concerns with the driver exiting the vehicle as the roller shutter is closed and hence no vehicles would be using the driveway to exit the car park. Such an arrangement is not unusual for residential developments. As noted above the number of non-resident vehicles entering the car park in one hour would be very low at up to three vehicles per hour and thus there is minimal potential for any queuing to occur. To exit the driveway, a magnetic loop on approach to the roller shutter will automatically open the roller shutter.

In summary, it is not likely that an influx of visitors would arrive at the building at the same time. An intercom system at the entry would enable residents to grant access to the basement for visitors promptly.

#### **iv. Dwelling yields in precinct B2,**

This proposal is the first development within Precinct B2 and proposes 116 apartments. The maximum dwelling yield for this precinct is 150 dwellings. This leaves 34 dwellings for the remainder of precinct B2, which is identified in the Indicative Housing Typologies map as townhouses (orange

in **Figure 3**). It is considered that this remaining number of dwellings is satisfactory given the remaining lots within Precinct B2. **Figure 7** below visually represents the subdivision layout of precinct B2. The remaining lots within the precinct are approved as superlots and the Concept Plan outlines these lots as medium density residential with a maximum height of 12 metres (up to 3 storeys).



**Figure 7** - B2 Approved subdivision plan. (Application site highlighted)

**v. Coastal Management SEPP 2018,**

The sites location results in the site being categorised as falling within the *Coastal use area* being lands adjacent to coastal waters, estuaries and coastal lakes and lagoons. A detailed discussion on the Policy is provided at **Section (8 ii)** of this report.

**vi. Design intent with the shape and design of the building.**

The applicant has submitted the following justification for the design intent for the development:

*The proposal celebrates is promontory site and takes cues from Roman and Classical buildings where the repetition of elements creates an architecture that becomes a sum of it's parts. The design takes it's cues from the surrounding coastal context with the arching concrete elements drawing influence from timber boat hulls, whale carcasses and the form of sea birds wings. The building is envisaged as a modern take on a classical form. The colour palette and materials are calm and the detail refined to create an elegant and considered response to a very visible location.*

*With the surrounding context not fully finished we have the rare opportunity to try define a waterfront language with a restrained and calm composition, high quality detailing and a repetition of form will allow a consistent appearance of the buildings perimeter as it is viewed from multiple different angles.*

*The proposed design is arranged around the arc of the Promontory Drive overlooking the marina which provides excellent views to the harbour, the coastline and back to the town centre. The scale of the proposal takes a considered approach to its surroundings where it tapers down from 6 storeys to 4 storeys to respond the scale of the future medium density town houses to the south. The perimeter façade is setback from the boundary to allow for a soft landscaped boundary between the public domain and the proposal. The units are generally set slightly higher than the adjacent public domain to maintain internal privacy while still providing passive surveillance of the public domain and harbour foreshore.*

*The continuous building form of Building A enables the maximum number of dwellings to enjoy solar penetration into the main open plan living areas, as the sun rotates around the built form from east to west. Additionally, the building's shape and position on the promontory will capture natural ventilation from prevailing sea breezes.*

*The proposal has been designed to provide all dwellings with a high level of internal amenity and allows it to orientate as many apartments as possible towards the significant ocean and coastal views available. It has been designed with the intention to provide optimum amenity to the residents where many of the units have been designed as cross-through units to provide opportunities for natural ventilation and provision of light to the residents. A higher ceiling is generally provided to the ground floor units to take advantage of the site slopes and clerestory windows and skylights have been provided to the top-level units.*

*Unit layouts have also been designed to be oversized to provide good amenity to the residents with floor to ceiling glazing proposed to the facades of the units to ensure that rooms will be well lit and ventilated.*

*A large communal area that has passive activity areas (such as lounges and covered seating areas) is also provided to Building B rooftop which will have ample access to solar for the residents throughout the year.*

## **Council Comments**

The Design Guidelines for Medium Density Housing and Apartments - Precincts B2 and C2 details the desired future character for the precinct. The urban design attributes have influenced the street pattern, lot layout, open space provisions and pedestrian connections.

The Design Guidelines encourage lots with a street address to the north (Building A) to include private north facing courtyards within front buildings lines. The design of Building A is seen to maximise this opportunity for the Apartments to have balconies which front the public open space and the water.

The lots with street addresses to the south and south west (Building B) are encouraged by the Design Guidelines to provide north facing living and private open space. The design of Building B generally complies with this, as the majority of apartments have their living areas and private open space/balconies to the north, or fronting the central Communal Open Space (COS) area. Only four ground floor apartments will have the private open space on the southern side, this is discussed in detail in **Section 8. v** of this report and the design of the building is suitably compliant with the desired future character of the precinct in accordance with the Design Guidelines.

The design of the apartments proposed will include pedestrian gates and access to the road from the primary frontage of the development as each ground floor apartment will include separate pedestrian access from the private open space area. The pedestrian entrances to the development will also be provided from each road frontage in accordance with the Design Guidelines.

The shape and design of the building has been informed by and reflects the desired future character of the Design Guidelines for Precinct B2 and C2.

## 6. Shellharbour Design Review Advisory Panel

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

All comments from the DRP have been addressed by the applicant and are discussed in detail in **Attachment 5**.

The DRP raised issue with a number of ground floor apartments which have floor levels below the street level. The development has been amended since review by the DRP was undertaken and the current proposal includes a total of five apartments that have floor levels below street level. **Table 2** below has been submitted by the applicant detailing which apartments are below street level and the respective levels.

Apartment	Garden RL	Street RL	Difference (m)
A00.01	5.35	6.41	-1.06
A00.02	5.35	6.005	-0.655
A00.03	5.35	5.64	-0.29
B00.01	5.435	5.855	-0.421
B00.02	5.435	5.695	-0.261

**Table 2** – floor levels for apartments below street level.

The applicant has provided justification of why there are apartments within this greenfield subdivision that are below street level as follows:

- The site is flood affected. To prevent the basement flooding, the car park ramp is set at RL4.9, to enable the car park entry to comply with the appropriate height clearances, the height of the Level 1 podium is set at RL 8.46. To ensure residents have accessible paths of travel from the Level 1 lifts to the Level 1 communal open space, the Level 1 common areas are set at RL 8.46. The ground floor levels have been co-ordinated to align with the Level 1 RL.
- The Building B ground floor level and its relationship to the street level is informed by the flood levels set for the substation (RL 6.13) and the car park entry (RL 4.9). These two points sit either side of Building B. The Building B ground floor level has been set at RL 5.435. The design responds to the street level grades as sympathetically as possible which results in two ground floor apartments sitting slightly below street level as outlined in **Table 2** above. If the apartments in Building B were removed, and the first level lifted up for a consistent floor level from the highest street level this would result in a negative streetscape outcome due to a large and high blank wall approximately 2m in height.
- The site slopes from RL 6.13 in the south western part of the site down to RL 4.09 at the northern part of the site – an approximately 2 metre change in level. In response, the ground floor level in Building A is stepped to respond to the change in level while maintaining the horizontal proportions of the façade, and an unbroken linear building parapet, which are key

features of the building's architectural expression. The change in level results in three of the 13 ground floor apartments in Building A being set below street level as outlined in **Table 2** above.

- d) As the site is sloped, the building has been designed to tie in between the existing levels and the foreshore. If all apartments are on street level this would require additional lift cores for level access, noting the design incorporates six cores already which exceeds a normal design response to these levels.

The ADG compliance with the apartments with the maximum level differences Apartment A00.01 where the finished floor is proposed to be 65cm below the adjacent public domain level, and apartment A00.02 which is proposed to be 1.06m below the adjacent public domain level are discussed below in **Table 3**.

<b>Table 3</b>		
<b>ADG Requirement</b>	<b>Applicants justification</b>	<b>Council Comment</b>
Part 4A – Solar and Daylight Access.	The solar analysis undertaken demonstrates that the two apartments achieve 3.25 hours and 4.5 hours of solar access respectively in mid-winter which exceeds the minimum criteria of 3 hours. <b>Figure 8</b> details the solar access for these two apartments. The diagrams show that apartment A00.01 will receive a total of 4.25 hours of sunlight between 11.45am and 4pm. Apartment A00.02 will receive a total of 5.5 hours between 10.30am and 4pm.	Complies with ADG and is acceptable with regards to solar access.
Part 4C – Ceiling Heights	The apartments meet the minimum 2.7 metre ceiling height required.	Complies with ADG and is acceptable with regards to ceiling height.
Part 4D – Apartment Size and layout	<p>Apartment A00.01 is 93 m<sup>2</sup> in size containing two bedrooms which is 23 m<sup>2</sup> larger than the minimum requirement.</p> <p>Apartment A00.02 is 110 m<sup>2</sup> in size containing two bedrooms which is 40 m<sup>2</sup> larger than the minimum requirement.</p> <p>All rooms in the apartments meet the minimum size criteria and are designed with open plan living areas that open directly onto the ground floor courtyards.</p>	Complies with ADG and is acceptable with regards to apartment size and layout.
Part 4E – Private Open Space	<p>Apartment A00.01 has a 31 m<sup>2</sup> courtyard and apartment A00.02 has a 37 m<sup>2</sup> courtyard. Both courtyards are more than double the minimum size recommended.</p> <p>Palisade fencing in conjunction with landscaping (<b>Figure 9</b>) will enable views and maintain privacy by preventing direct overlooking, with the fencing set back over 4m from the living room glazing line.</p> <p>Both apartments have direct access from the public domain, access from the main entrance</p>	Complies with ADG and is acceptable with regards to private open space.

	lobby and access from the basement car park which will enable residents' multiple legible ways to access their apartments.	
Part 4G - Storage	Storage is provided in accordance with the amount recommended	Storage proposed within the apartment for apartment A00.01 is 4.3 m <sup>3</sup> and for apartment A00.02 is 6.0 m <sup>3</sup> . Both apartments also have an allocated storage cage in the basement which provides 5.28 m <sup>3</sup> for each apartment. This provision complies with the ADG requirements for storage.



**Figure 8** - solar diagram for apartments A00.01 and A00.02

**Figure 9** below details a section of these apartments. Landscaping on both sides of the boundary treatment will provide privacy for these two apartments.



**Figure 9** - Section of apartments A00.01 and A00.02.

Apartment A00.03 is sited a maximum of 0.29 metres below street level. This minimal amount does not affect solar access, with the apartments receiving over the solar requirements of the ADGS, larger apartment floor size and the Private Open Space (POS) exceeds requirements in terms of area and meets dimensions specified in the ADGs. The apartment will not be cross ventilated but will have direct street access, via a pedestrian gate. **Figure 10** below shows a cross section through apartment A00.03 showing the difference in levels is minimal.



**Figure 10** - cross section through Apartment A00.03.

Apartments B00.01 and B00.02 will be south facing, single aspect units. The solar access requirements are not met for these apartments (they form part of the apartments that do not achieve the solar access requirements as detailed in **Attachment 7**). **Figures 11** and **12** show cross sections of these two apartments and detail the minimal amount the floor levels are below the street level.



**Figure 11** – cross section through Apartment B00.01.



**Figure 12** – cross section through Apartment B00.02

As can be seen from **Figures 11** and **12** above the level difference from street level is minimal and will not have a significant detrimental impact on the amenity of apartments B00.01 and B00.02. The apartments along this side of Building B will all be south facing and single aspect as a result of the design of the development and will not be significantly impaired by the level difference. These apartments do not achieve the dimensions for the POS areas as discussed in further detail in **Section 8 v** of this report.

Council considers that the justification provided gives credible reasons why the five apartments noted in **Table 1** are proposed to have a floor level below street level. The apartments will achieve an appropriate level of amenity, suitable passive surveillance onto the street and public footpath and an effective interface between public and private. The landscaping proposed is considered to provide a suitable transitional buffer between the street and the apartments.

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

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

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

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

Schedule 7 Regionally significant development

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

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

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

The proposal has a construction value of \$78,970,341 and is on land owned by Council. The area is also part of the Shell Cove Project as a collaboration between Shellharbour City Council and the developer,

Frasers Property Australia. Therefore, the development is classed as regionally significant development. Under Part 4, Division 4.2, Section 4.5 (b) of the *Environmental Planning and Assessment Act 1979* the Regional Planning Panel for the area (Southern) is designated as the determining authority.

ii. State Environmental Planning Policy Coastal Management 2018

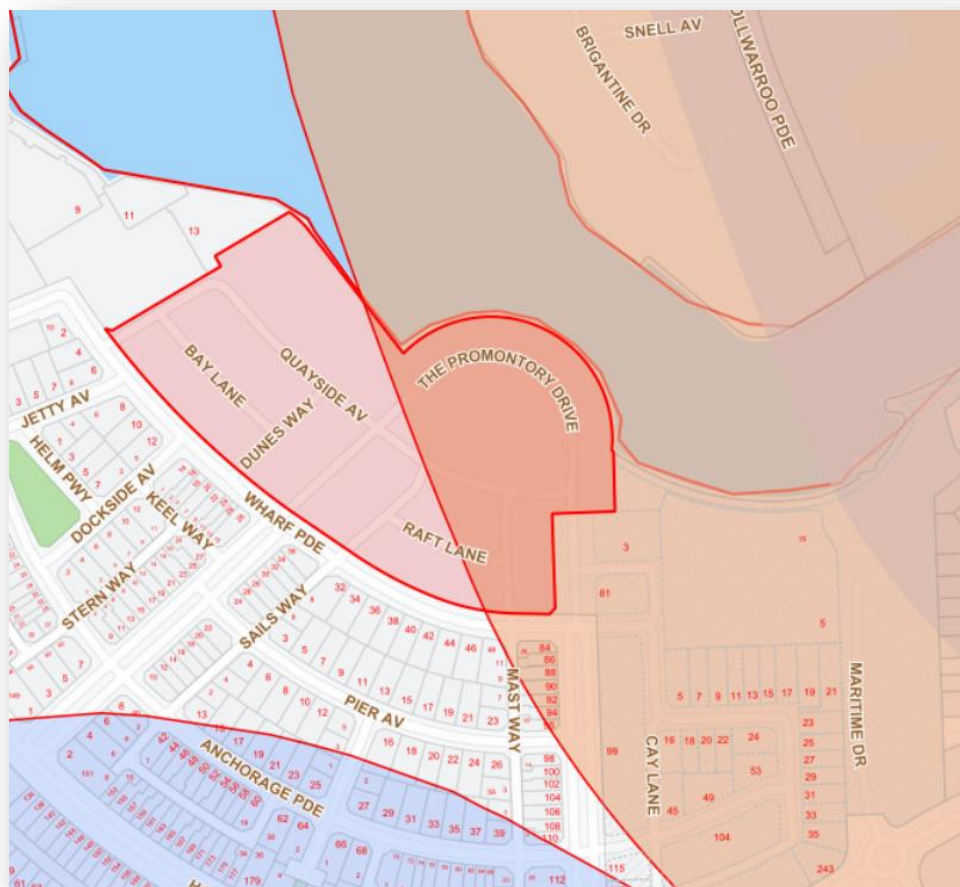
The aim of this Policy is to promote an integrated and coordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016, including the management objectives for each coastal management area, by:

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

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

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

The application site is included in the coastal use area as shown in **Figure 13**.



**Figure 13** - Coastal Use Area Map

#### *Division 4 Coastal use area*

##### *14 Development on land within the coastal use area*

*(1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority—*

*(a) has considered whether the proposed development is likely to cause an adverse impact on the following—*

- (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
- (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,*
- (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,*
- (iv) Aboriginal cultural heritage, practices and places,*
- (v) cultural and built environment heritage, and*

*(b) is satisfied that—*

- (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
- (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
- (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and*

*(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*

#### **Council Comments**

The assessment of this proposal has considered any potential impacts as referred to in paragraph (a) of Division 14 as follows:

- (i) The development will enhance and not impede safe access to and along the foreshore of the marina and will not affect the existing beach access.
- (ii) The development will be sited to the south west of the public foreshore and will not cause overshadowing to these areas. The wind report submitted as part of the proposal concludes that the proposed development will have limited effect on the local wind environment. The report finds that the road layout of Precinct B1, C1 and B2 will reduce potential for channeling flow to reach the subject site. There are no public spaces to the west of the development site that would have views of the foreshore impacted.
- (iii) The development will be visible from the water and will be seen as a primary building along the foreshore. However as the development height, number of storeys, design and materials and finishes are considered to comply with the Concept Approval, and Design Guidelines for the Precinct the development will not have an adverse impact on the visual amenity or scenic qualities of the coast.
- (iv) The site is not identified as having any heritage sites within close proximity. Aboriginal heritage significance was investigated as part of the Part 3A Concept Plan application and the archaeological sensitivity of the area was considered low. The proposal is not considered to have an adverse impact on the Aboriginal cultural heritage, practices or places. In accordance with the Concept Plan an unexpected finds condition relating to Aboriginal Heritage items has been recommended.
- (v) The development is not considered to have a detrimental impact on the cultural and built environment heritage of the area.

#### *Division 5 General*

##### *15 Development in coastal zone generally—development not to increase risk of coastal hazards*

*Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.*

Coastal hazards have been assessed for harbour foreshore precincts and do not require further assessment for this proposal.

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

The aim of SEPP 55 is to provide for the remediation of contaminated land for the purpose of reducing the risk of harm to human health or environment and requiring that any remediation work meet certain standards and notification requirements. The policy states that land must not be developed if it is unsuitable for a proposed use because it is contaminated.

A contamination report authored by Douglas Partners, reference CH.001 Rev 0 dated 7 June 2018 has been submitted with the application. This report covers the precinct C2 and B2 area which are within the boat harbour area that was subject to a Detailed Site Investigation in 2010. The 2010 assessment found there were no contamination issues that would preclude development of the B2 and C2 areas.

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

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

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

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

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

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

*a) Principle 1: Context and Neighbourhood Character*

The context for the proposal is a master planned urban area identified as Shell Cove Urban Release Area. The site is surrounded by roads on all sides, with the Shell Cove Marina to the north east. The superlots to the south west of the application site are yet to be developed, the Concept Approval highlights these lots as medium density residential developments with a maximum height of 12 metres and four storeys. The development is seen as a key development within the Shell Cove area with the unique crescent shape allowing water views to more of the apartments than a traditional rectangular building and will add architectural interest to the precinct as a whole.

The contextual benefits for residents including panoramic views of the Marina/Ocean area and public boardwalk area around the Marina, including abundance of COS, will outweigh any potential conflicts relating to strict non-compliances with the ADGs.

*b) Principle 2: Built Form and Scale*

The built form will provide for apartments that meet the needs of residents in this location, without negatively impacting on the surrounding locality. In addition, the built form is capable of responding to the

coastal setting of the area. The height and density of the development is compliant with the Concept Plan with a maximum of 6 storeys for Building A, dropping down to four storeys where the break in the building is located creating the large courtyards for apartments A05.05 and A05.06 and four storeys for Building B.

The semicircular shape of the site allows the east facing apartments to have views of the sunrise and the ocean, whilst the west facing apartments will obtain views over the balance of the Shell Cove site.

The building setbacks for building A (the larger of the two buildings) are increased at the intermediate levels to 4.4m from the site boundary which allows a more open feeling when at ground level on the footpath. The perimeter facade is set back from the boundary with deep soil zones allowing suitable conditions for the perimeter landscape planting to create a soft boundary between the public domain (pedestrian path) and the development. The sculpted concrete blades define the form and proportions of the perimeter façade and give the building a unique look. These blades are set out on a radial grid which allows all of the balcony openings and bedroom elements to be exactly the same size and allow for modularisation and repetition. This design maximizes the view amenity provided by this unique site. The scale of the buildings has been considered carefully against the future proposals within the precinct and future and existing buildings in the surrounding precincts.

The proposal has benefited from a rigorous assessment process, including pre-lodgement advice and Design Review Panel. This process resolved that the bulk and scale of the development was suitable for the site and the prominent position of the site within the area.

#### *c) Principle 3: Density*

The density proposed includes a mix of apartment types ranging from 1 to 3 bedrooms with a variety in size and amenities including the number of bathrooms in each apartment. The dwelling yield proposed complies with the maximum limit for Precinct B2 as outlined within the Concept Plan.

The development breaks down into

- 17 x 1-bedroom apartments, representing 15% of the total
- 40 x 2-bedroom apartments, representing 34% of the total
- 59 x 3-bedroom apartments, representing 51% of the total

Of the 116 apartments, 12 apartments (10%) are proposed to be designed in accordance with *Australian Standard 4299-1995 Adaptable housing*, these apartments and an additional 12 (10%) of the total apartments also incorporate the Liveable Housing Design (LHD) Guidelines silver level universal design features.

The submitted adaptable floor plan shown on plan reference DA450 Rev. P9 dated 11/09/2019 have been assessed under a clause-by-clause assessment of both floor plans within the submitted Disability Access Report reference J000343 dated 10/09/2019. This report concludes that the floor plans achieve the requirements of Australian Standard AS4299 – Adaptable House Class C, incorporating all of the essential features for adaptable housing.

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

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

The nominated 24 apartments have been shown to meet the Silver level LHD Guidelines in the submitted Disability Access Statement.

*d) Principle 4: Sustainability*

The provision of 116 apartments on the site is consistent with the Concept Plan, leaving a maximum of 34 dwellings for development within the remaining lots of Precinct B2, as shown in **Figure 7**.

The apartments have been designed having regard to thermal performance, provision of reasonable amenity to occupants and therefore an efficient use of energy supply. The inclusion of a break within building A provides visual relief to the massing of the building at the primary interface and provides solar access to the central COS and the eastern side of Building B.

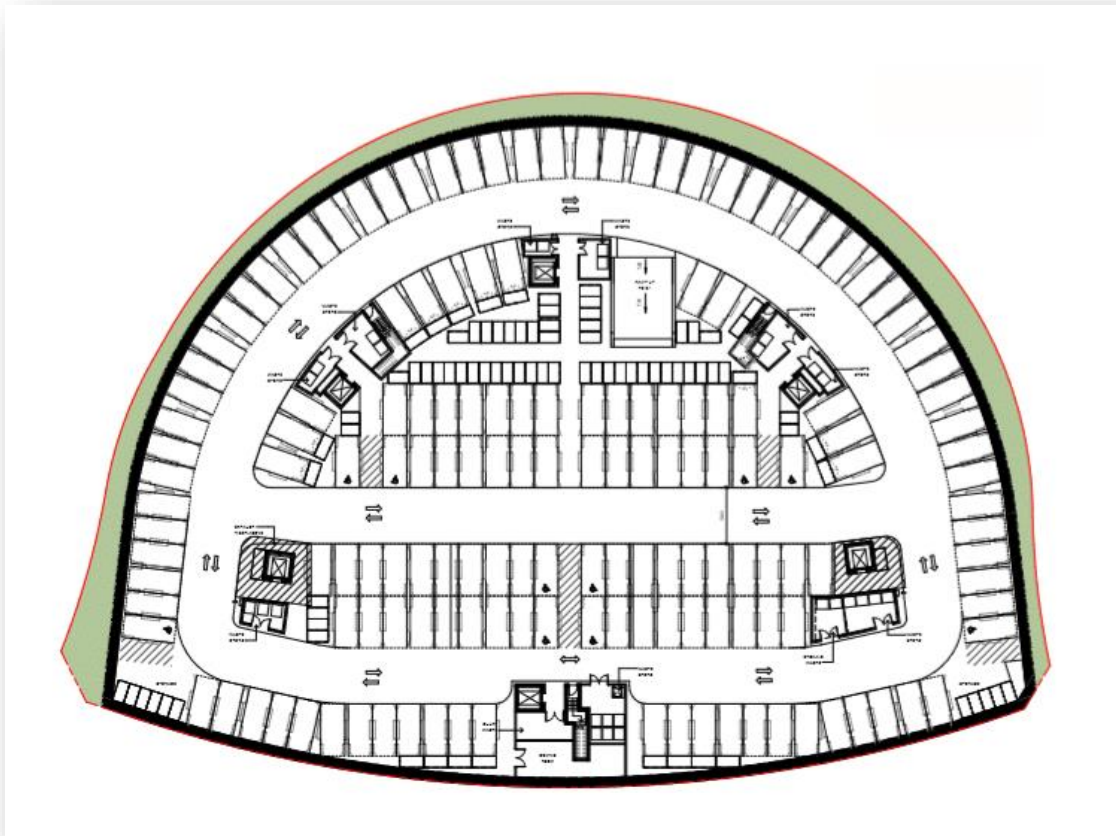
The BASIX and NatHERS assessments detail that the development will achieve the water target of 40% and thermal comfort achieves BASIX limit. The energy usage of the proposed apartments exceeds BASIX limit of 30%, this level is calculated on the efficiency of fixed appliances that will be used.

All apartments also have solar control such as overhangs, balconies and blade walls to provide shading in summer. The proposal includes 59.5% of apartments which will be naturally cross ventilated. The use of precast concrete, combined with other low maintenance materials will extend the life of the building. Roof mounted PV panels will provide sustainable energy. Internally, low energy and low water use plant, appliances, lights and fittings have been selected. The proposed landscaping includes dense planting to provide microclimates for local wildlife and insects.

*e) Principle 5: Landscape*

The landscape design provides for a variety of uses for residents to enjoy the COS areas and a good-sized swimming pool, shade structures and paved areas for sitting. The COS roof top terrace located on Building B will be available for all residents to use and will include a gym, lounge area, dining area and yoga platform, with raised planter beds including suitable planting. Whilst these areas do not include any deep soil area it is noted that residents can access the wider developments and public domain provided in Shell Cove development, including public open space within the Town Centre approximately 160 metres away and the public boardwalk running adjacent to the site which provides a walking trail around the whole of the Marina edge. In this context the residents will generally be reliant upon the COS located in this development and supplement this with the wider public domain context for their exercise and enjoyment which overall will provide a high level of amenity.

A deep soil zone of 412m<sup>2</sup> (7% of site area) has been provided as shown in **figure 14** below.



**Figure 14** - Deep Soil Zone (shown in green)

This deep soil zone does not meet the required minimum dimensions of 6 metres with a minimum dimension proposed of 1.4 metres. Due to the proposed shape and building configuration with provision of basement parking the proposed deep soil beds are narrower than required. However, the proposed deep soil will promote and support the healthy plant and tree growth to not only the ground floor apartment gardens but also to encourage the root growth of the street trees in the public domain.

Additionally, the raised central courtyard garden incorporates a large planter bed (445m<sup>2</sup> or 8% of the site area) with sufficient soil depth to allow for the planting of large trees that will improve residential amenity outlook from the apartments. Further, the proposed minimum dimensions will not create any unreasonable impacts to stormwater or flood management, with are restrictions of the site.

*f) Principle 6: Amenity*

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

Internally the development achieves natural cross ventilation to 59.5% of the proposed apartments (ADG requirement is 60%). The proposed variation is minimal and reasonable in the circumstances. In addition, the site is exposed to sea breezes that will enhance natural ventilation to all apartments.

The applicant has noted that 33 of the 116 apartments have a room depth greater than 8m (ADG requirement), being:

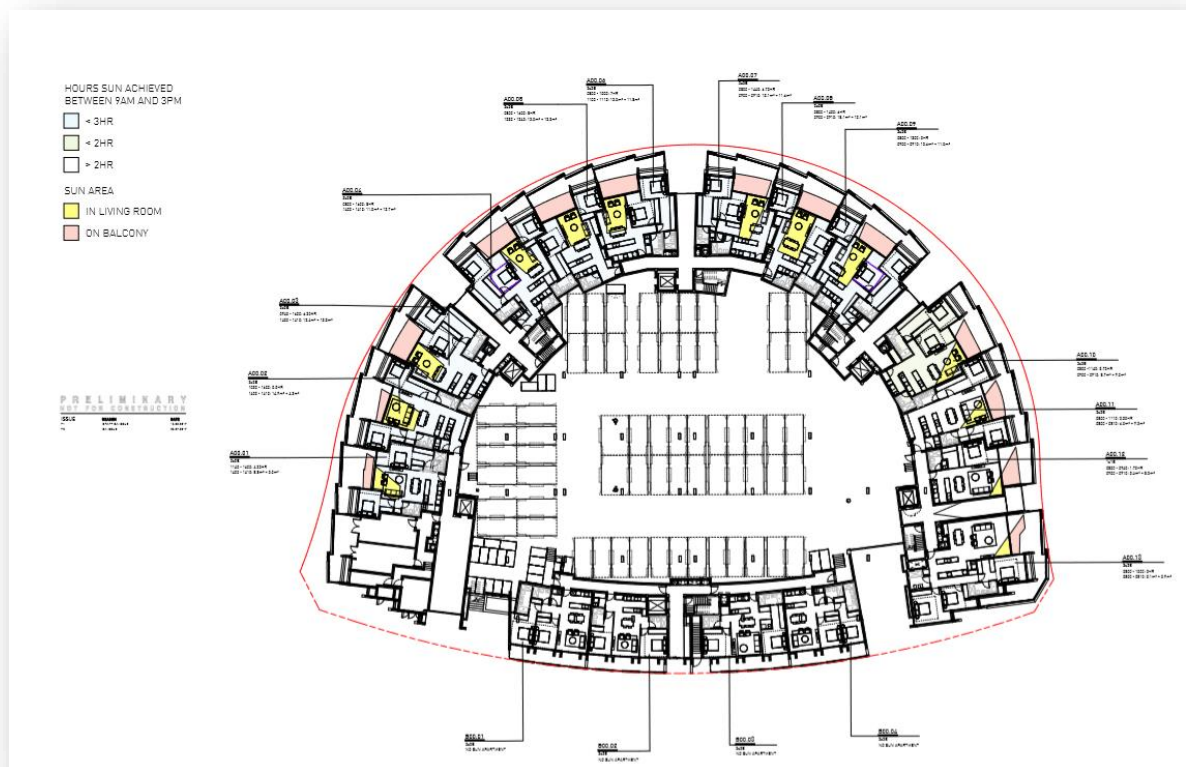
- i. Ground floor: eight apartments (A00.01, A00.02, A00.03, A00.05, A00.08, A00.10, A00.11 and A00.12).

ii. Level 1 - 5: 25 x apartments (A0.03, A0.04, A0.09, A0.12 and A0.13).

The maximum room depth proposed is 8.8 metres a relatively minor 0.8m or 10% increase. The 0.8m area that sits beyond the 8m is generally a kitchen space for appliances such as the refrigerator, oven and stove and access to these areas, and pulling this area forward would result in a non-preferable style of kitchen with limited space available for presumed appliance inclusions befitting the quality of the development.

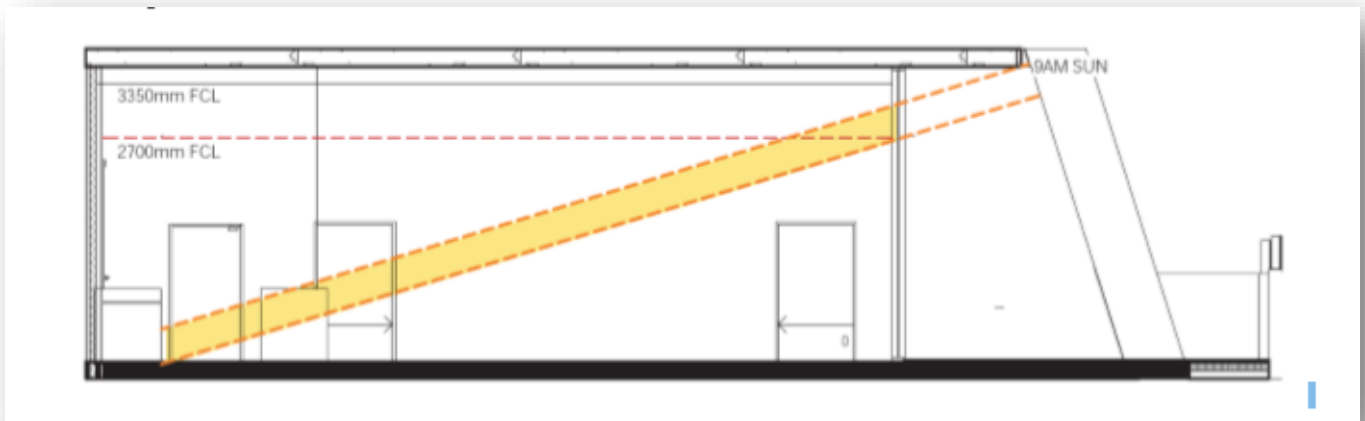
The following design measures have been proposed to maximise light into each of the apartments:

- i. Apartments on Level 1 and above are cross ventilated apartments with typically longer open plans and will access natural light from multiple facades.
- ii. Wider frontages to unit living areas usually 4.9m (i.e. 0.9m wider than the minimum requirement).
- iii. Full height and width glazing to living rooms to maximise light access into the apartments.
- iv. The solar analysis undertaken by the applicant demonstrates that all apartments with increased depths receive solar access for a minimum of 3 hours between 7am – 3pm in mid-winter based on extended hours (refer to **figure 15** below)



**Figure 15** - solar access Ground Floor

- v. Apartments 00.05, 00.08, 00.10, 00.11 and 00.12 on the ground level have increased ceiling heights of a minimum 3.35m which allows light to penetrate further into the apartments, refer to **figure 16** below.



**Figure 16** - Ground floor single aspect apartment with increased ceiling height to increase light entering

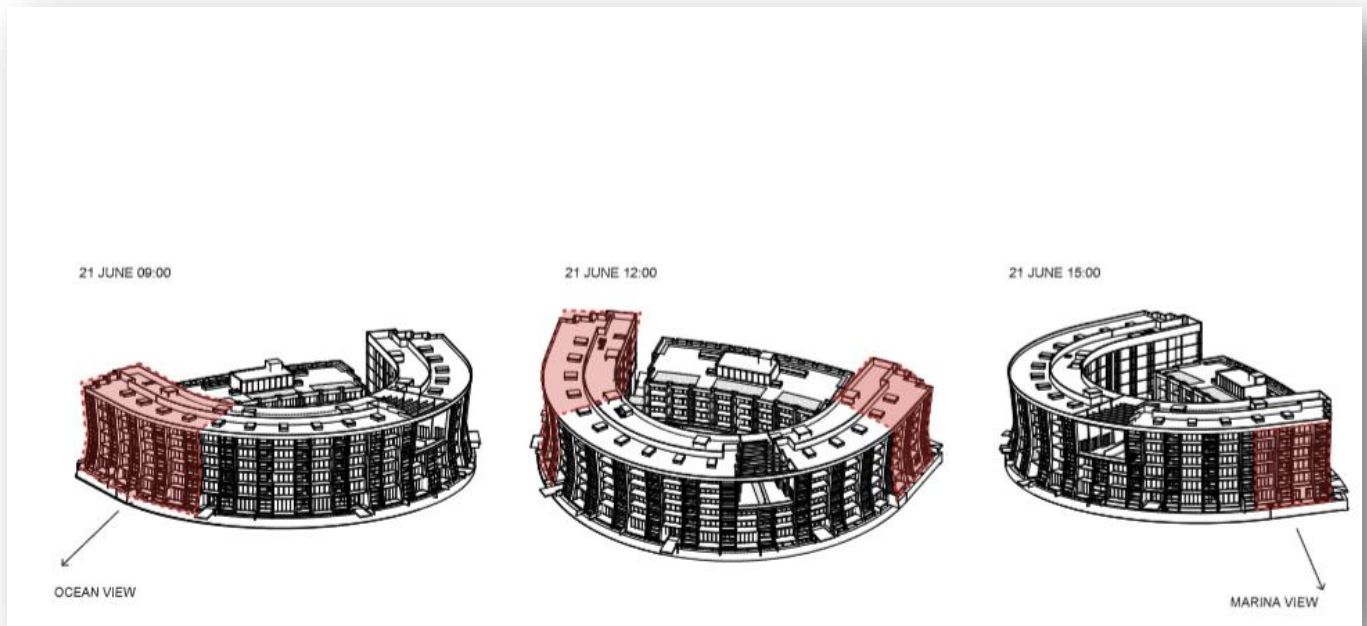
- vi. Open plan living areas are located immediately adjacent to the private open space to maximise light into the living areas.

Approximately 75% of the apartments that have a depth of greater than 8m are cross ventilated which will naturally ventilate the open plan areas. Five of the ground floor apartments (which are single aspect) have increase ceiling heights of 3.35m which will allow air to rise and circulate within the apartment. Furthermore, the sites location on the coast means it will receive strong easterly sea breezes that will naturally ventilate apartments throughout the year.

The applicant has undertaken a solar access analysis of the proposed development on 21 June. Direct solar access is achieved for a minimum of three hours to the living rooms and private open spaces of 78 apartments (52%) between 9am – 3pm on 21 June, the ADG requirement is 70% of apartments.

The ADGs outline that achieving the design criteria may not be possible where significant views are oriented away from the desired aspect for direct sunlight. The site's shape, orientation, context and access to high quality coastal vistas have informed the siting and orientation of the built form. This has reduced the number of apartments that receive a minimum of three hours direct solar access in midwinter.

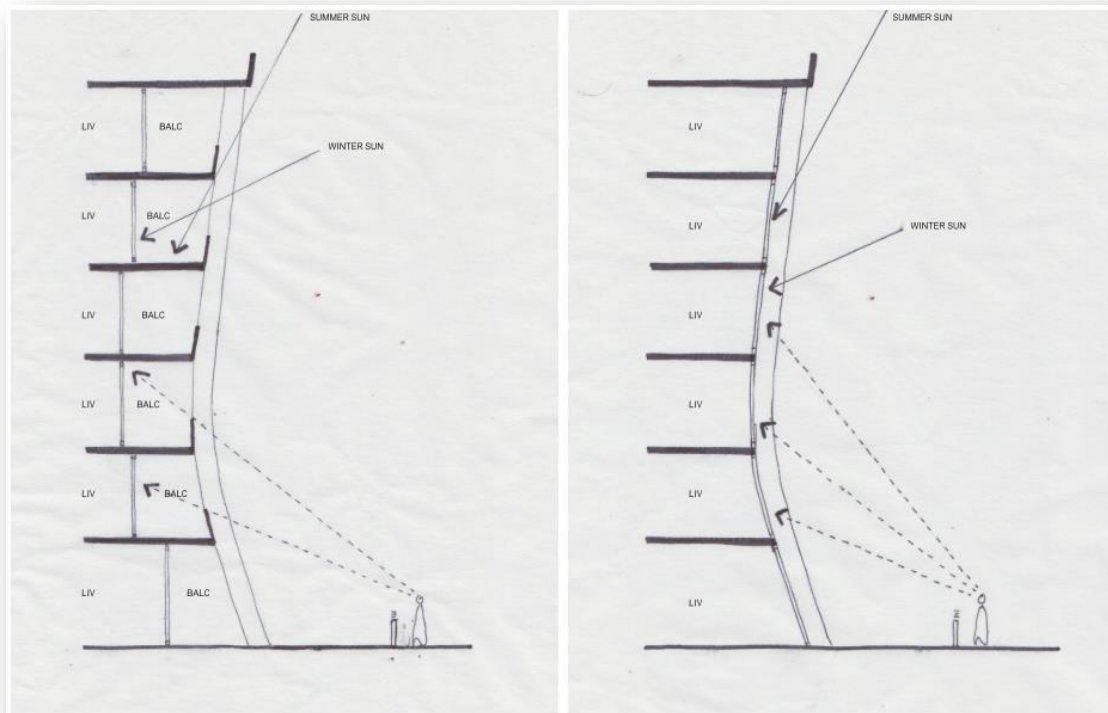
**Figure 17** highlights the apartments that will not receive a minimum of three hours of direct solar access in midwinter but will benefit from significant views.



**Figure 17** - solar access Building A

This level of solar access is considered acceptable as:

- Living areas are predominantly located on the external face of the building to maximise daylight access. The unit layouts are functional and well organised to provide a high level of internal comfort.
- High levels of controlled daylight are provided directly through generous windows. In apartments on the top floor additional sun and/or light is provided by clerestory's and skylights.
- The orientation of the site means that whilst the apartments on the east and the west fall outside of the 9-3pm window they still receive either morning or afternoon sun. Between 8-4pm on June 21, 66% of apartments receive a minimum of 3 hours solar access; and
- The proposal includes 16 (14%) apartments that receive no direct sunlight between 9am – 3pm on 21 June which complies with the ADGs.
- **Figure 18** visually highlights how the location of the balconies affects the solar access to living areas. The right-hand side diagram shows the proposed living areas behind balconies which benefit from increased privacy from street, solar shading in summer and the living area can extend into balcony. The shortcoming of this design is reduced solar access mid-winter.
- The left hand side of **Figure 18** shows the living areas abutting the front setback, this would improve solar access mid-winter but would not provide as much privacy for occupants from the street, would reduce flexibility of the apartment internal configuration and would not provide shading from summer sun.



**Figure 18** - Living areas and balconies

The ADGS require that ground floor apartments include Private Open Space (POS) instead of a balcony and this must have a minimum area of 15sqm and depth of 3 metres.

The POS for the ground floor apartments of Building B do not achieve the minimum depth of 3 metres. These four South facing ground level apartments have private open space that is 1.8m deep all the way along the 10 metres width and with a 19sqm total area, this exceeds the minimum area required by the ADGs (15sqm). The orientation of these courtyard gardens allows all bedrooms and the open plan living area access to the external space. The design of the parking for the development within the central area means that the POS cannot be on the northern side for these apartments. It should also be noted that apartments B00.01 and B00.02 have floor levels below street level as discussed in detail in **section 6** of this report.

The landscaping proposed adjacent to the boundary treatment (1.2 solid masonry wall with palisade fencing above) will protect the privacy of residents whilst still allowing passive surveillance to the street and pedestrian footpath. The POS areas have been designed to include planting beds as well as paved areas outside the living/dining rooms to allow for outdoor seating. **Figures 19** and **20** below detail the landscaping proposed.



**Figure 19** – Building B ground floor apartments B00.01 and B00.02



**Figure 20-** Building B ground floor apartments B00.03 and B00.04.

Given these apartments have POS which exceeds the minimum requirement and each habitable room within the apartments will open directly into this POS it is considered that this variation is acceptable. Building B proposes nine apartments off a single core, which is one apartment more than the numeric design criteria of eight apartments. To ensure suitable light and ventilation to the common circulation space in Building B full height glazing is proposed on each level. Natural ventilation is provided through an operable window, and the pocket garden proposed outside the full height window will provide a visual connection to the landscape, refer **Figure 21**.



**Figure 21** - Building B Level 2 - corridor includes full height windows and a pocket garden

The corridors for each floor of Building B are also approximately 12m in length from the centrally located lift core. This distance is considered acceptable given the availability of light and ventilation provided to the corridors via the external landscaped area, and is consistent in terms of Objective 4F-1 of the ADG Design Guidance, indicating 12m is the appropriate maximum length for a corridor from a lift core.

*g) Principle 7: Safety*

All building entry points are clearly defined from the public domain and include secure glass sliding doors facing the street which allows for passive surveillance. Numerous ground level entries contribute to the activation of the street and delineation of spaces are clear and legible. Vehicle access is completely separate to the pedestrian entrances provided and access to all COS will be restricted from general public access. Secure access to building entries, carpark, basement lifts and raised courtyard garden is controlled via swipe key access for residents.

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

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

The mix of apartments types and sizes is reasonable. The design adequately considers the promotion of social interaction, having appropriate COS and generously sized lobbies for each pedestrian access point. The design of the development allows many of the apartments to have views into the internal courtyard COS which allows for passive surveillance and improves social interaction.

As discussed above the 116 apartments, 12 apartments (10%) are proposed to be designed in accordance with *Australian Standard 4299-1995 Adaptable housing*, these apartments and an additional 12 (10%) of the total apartments also incorporate the Liveable Housing Design (LHD) Guidelines silver level universal design features.

*i) Principle 9: Aesthetics*

The treatments and finishes are of a high quality and suited to the coastal location and will provide for consistency with future developments within Precincts B2 and C2. The proposal contributes to the desired future character of the area as controlled by the Design Guidelines for Medium Density Housing and Apartments within Precinct B2 and C2.

vi. Shellharbour Local Environmental Plan 2013 (SLEP 2013)

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

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

None.

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

The Design Guidelines for Medium Density Housing and Apartments for Precinct B2 and C2 (Design Guidelines) provides specific built form and structure controls for the medium density housing included within Precinct B2 and C2 of the Shell Cove Concept Plan area. These guidelines were prepared in accordance with the requirements of the Part 3A Concept Plan and were endorsed by Council on the 17 June 2019.

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

Shellharbour Development Control Plan 2013 (SDCP 2013)

Pursuant to the Environmental Planning and Assessment Act (Savings, Transitional and Other Provisions) Regulations 2017, the provisions of any development control plan do not have effect to the extent to which they are inconsistent with the terms of the approval of the Concept Plan. The DA is assessed under the design guidelines developed for the Precinct B2 as required by the Concept Approval. Development objectives and provisions of SDCP 2013 will only apply where the Design Guidelines are silent.

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

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

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

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

**13. Section 4.15 (1)(b)- the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality;**  
The proposal has the potential to result in adverse impacts as follows:

i. Visual Impact

A visual impact assessment (VIA) has been submitted as part of the DA in line with the requirements of the Concept Plan. A qualitative assessment against the Concept Plan and the specific local views chosen for the purpose of assessment has been provided as part of the VIA and included below in **Table 4**.

Concept Plan View Location	Analysis
Location 1, Shallows Drive	A small portion of the proposal will be visible beyond the future 2 and 3 storey dwellings in Precincts B1, B2, C1 and C2.
Location 2, James Cook Parkway	A small portion of the proposal will be visible beyond the future 2 and 3 storey dwellings in Precincts B1, B2, C1 and C2. The view to the horizon will be maintained.
Location 3, Beakys Reserve Bass Point	A small portion of the proposal will be visible beyond the future dwellings in Precinct A1 and the Boat Maintenance Facility in Precinct A2. The view to the escarpment will be maintained.
Location 4, Cowies Reserve, Shellharbour boat harbour	The proposal will not be visible from this location.
Location 5, the northern end of Shellharbour South Beach	The proposal will not be visible from this location.
Location 6, 27 Ragamuffin Circuit	A small portion of the proposal will be visible beyond the medium density dwellings and apartment building in Precincts C1 and C2. The view to the horizon will be maintained.
Location 7, 18 Tasman Drive	A small portion of the proposal will be visible beyond the medium density dwellings and apartment building in Precincts C1 and C2. The view to the horizon will be maintained.
Location 8, 26 Mystics Drive	The proposal will not be visible from this location.

**Table 4** – View Location and analysis

The view locations are mapped in **figure 22** below.



**Figure 22 – View Locations**

The development proposed will have minimal impact on the establishment or maintenance of public views and vistas throughout the Shell Cove Boat Harbour Precinct. As detailed the proposed development delivers a built form that is appropriate to the site's context and to the desired urban form and scale for Precinct B2.

The height of proposed development is within the terms of the Concept Plan. The proposed bulk, scale, architectural language and materials and finishes comply with the Design Guidelines as discussed. The proposal will complement the future character of the surrounding area and will sit comfortably within the surrounding public domain and the future adjacent residential development. The impacts on views associated with proposed development are consistent with those assessed under the Concept Plan and will not have any adverse view impacts beyond those already considered.

The proposed development is within the Concept Plan height limit and achieves a compatible and consistent form with the intended future character for the site established by the Concept Plan and the Design Guidelines. The development is not considered to result in any unreasonable visual impact on the public domain/foreshore area and the visual impacts are consistent with those considered during the assessment of the Concept Plan and are acceptable.

## ii. Noise

Acoustic Logic (2019) prepared the Shell Cove, B2 Apartments Noise Impact Assessment. The assessment addresses noise impacts associated with the following:

- a) Noise intrusion to project site from adjacent roadways, marina and boat maintenance facility;

- b) Noise emissions from mechanical plant to service the project site (in principle).

Additional information was requested by Council following a preliminary assessment in regard to further information/assessment of the following matters:

- a) Noise impact on the apartments in particular the bedrooms, that directly adjoin the vehicle access point/ramp to the carpark;
- b) Noise impact and provision of potential noise attenuation measures of the operating roller door at the vehicle access point on adjacent residences;
- c) Noise impact of the proposed internal turn table and its potential impact on the adjoining apartments;
- d) Noise impacts from the communal pool and recreational garden area in the centre of the development, particularly on the residence balcony's looking over this space.

Acoustic Logic provided a response to Council on clarifying the following points:

- a) The specified window thickness of 10.38mm laminated will be sufficient in mitigating noise produced from the carpark entrance to the apartments and bedrooms directly adjacent.
- b) Noise emitted by the car park roller door and car park turn table will be assessed at the CC stage with appropriate acoustic treatments implemented to satisfactorily comply with the acoustic requirements.
- c) Noise from the centralised courtyard is regarded as neighbourhood noise which is not required to be assessed based on NSW EPA Noise Policy for Industry. It is considered that this noise will be managed appropriately through management controls including clear signage. It is not intended that the space be used for large functions.

The Acoustic Assessment (Acoustic Logic 2019) and additional information provided in a letter to Council (Acoustic Logic 2020) recommends that further assessment is required during the detailed design stage to assess the actual level of the Building Services Noise – carpark roller door, car park turntable etc. This is considered reasonable and has been suitably conditioned.

The design and acoustic absorption finishes including glazed windows and doors, external roof/ceiling and external wall construction and plasterboard corner details outlined in Section 5.3 (Acoustic Logic 2019) are considered acceptable and these requirements suitably conditioned.

iii. Parking and Access

The proposed development will have a surplus of 44 on-site parking spaces for residents and their visitors. The layout and access to the basement parking levels are considered acceptable and suitably compliant with relevant Australian Standards.

The access ramp is suitably sized to allow service vehicles entry to the development including the waste storage area. The provision of a 12-metre turntable within basement level 1 will allow service vehicles to enter and exit the site in a forward direction.

Pedestrian access is separate to vehicle access and will be suitably secure.

iv. Social Impact

A Social Impact Assessment (SIA) has been prepared to accompany the subject DA. The purpose of the SIA is to satisfy that the social impacts of the proposed development. The findings of the SIA have been suitably assessed and negative impacts identified as follows;

- a) Some existing residents of Shellharbour LGA may be concerned about the impact of the proposed development on the local character of the area, and the composition of the community. As identified above, existing residents of Shell Cove have a different demographic profile compared with residents of Shellharbour LGA

Proposed mitigation: Negative potential impacts to community risks and fears can be addressed through proactive engagement with the surrounding Shellharbour LGA community.

- b) The construction of the proposed development may result in impacts to amenity if not appropriately managed.

Proposed mitigation: Construction impacts will be managed in line with the construction management plan for the proposed development. With mitigation measures it is likely the impact will become neutral.

The submitted SIA has demonstrated that the potential positive and negative impacts of the development have been suitably mitigated and/or managed.

v. Wind Conditions

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

The assessment concludes that as the development is of similar size to most surrounding and future structures, the proposed development will have a limited effect on the local wind environment. Wind conditions around the development are expected to be classified as acceptable for pedestrian standing or walking from a Lawson comfort perspective and pass the distress/safety criterion.

The COS located within the central courtyard of the development is well protected from approach winds. The roof top POS areas for Building A on Level 3 may experience channelling flow impacting wind amenity. This area would benefit from landscaping as proposed to mitigate wind flow. Balconies throughout the proposed development are recessed from the external façade boundary and are expected to experience calm wind conditions suitable for stationary activities and use of loose furniture.

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

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

- a) The Concept Plan envisages a residential development within this precinct and apartments in this location;
- b) The site is zoned to accommodate this form of development;
- c) The buildings proposed are of an appropriate scale adjoining the waterfront;
- d) There are no contamination issues that would preclude residential development on this site;
- e) An assessment of the Social Impact has demonstrated that the residential development proposed would be suitable for the site and the surrounding Shell Cove Concept Plan area, and;
- f) The proposal is consistent with the provisions of the Concept Plan and the Design Guidelines for Precinct B2.

The development site is appropriately zoned and will be located within a residential area and benefit from internal parking provision. The site is considered suitable for the development

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

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

The DA was publicly notified for a period of 21 days commencing 11 October 2019 and closing 11 November 2019 with an extension period granted by Council till 25 November 2019. The notification included a DA notification sign on the land, letters to property owners/occupiers within 50m of the site and an advertisement notice in the local newspaper seeking representations regarding the proposal to be submitted for Council's consideration within the exhibition period. One submission was received. Issues raised as follows:

- a) Notification plans do not provide adequate information to make comments
- b) All appendices referred to in Statement of Environmental Effects (SEE) should be made available to public
- c) Additional two weeks consultation period required to allow people to read information requested and consider.

Council has responded to the issues raised by ensuring the appendices referred to in the SEE were made available to the public and by extending the period submissions would be accepted by two weeks as requested. No additional submissions were received. It is not considered that the proposal required amendment or refusal as a result of the submission received.

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

The proposal is consistent with the Concept Plan Approval. The proposal will provide a mixture of size of apartments within the Shell Cove Marina development and the site is considered suitable for the development. Potential impacts of the development have been identified and addressed subject to the recommended conditions included in **Attachment 1**.

Given the Capital Investment Value of the development and in the public interest this assessment report and all supporting documentation has been reviewed by an independent planning consultant TCG Planning, to ensure that all relevant legislation and aspects of the assessment were included. The recommendations of this review have been received and has identified that the overall assessment is satisfactory, subject to the recommended amendments which have been actioned.

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

#### **17. Conclusion**

The proposed development:

- is consistent with the relevant statutory requirements, development controls and planning objectives, and
- is consistent with the applicable provisions of the relevant state planning policies including SEPP 65 and the Apartment Design Guide;
- is able to contribute to the overall vehicle parking requirements that will service the subject DA;
- has been designed to respect and enhance the coastal character of the Shell Cove Development and the specific character of Precinct B2.

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

#### **18. Recommendation**

That conditional development consent is granted to Development Application No. 0501/2019 (PPSSTH-24) to construct a residential flat building comprising 116 apartments and basement parking at Lot 9009 DP1254656 (formally Lot 1091 DP 1254727) Harbour Boulevard, Shell Cove. The recommended conditions are detailed in **Attachment 1**.