

## COUNCIL ASSESSMENT REPORT

### SOUTHERN REGIONAL PLANNING PANEL

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| <b>PANEL REFERENCE &amp; DA NUMBER</b>                          | PPSSTH257 – DA0272/2023   |
| <b>PROPOSAL</b>   | Shell Cove Waterfront Centre (Community Facilities, Information and education facility)   |
| <b>ADDRESS</b>  | Lot 4023 DP 1254658 & Lot 4024 DP 1254658 2 Waterfront Promenade, Shell Cove  |
| <b>APPLICANT</b>  | Shellharbour City Council   |
| <b>OWNER</b>  | Shellharbour City Council   |
| <b>DA LODGEMENT DATE</b>  | 23.06.2023  |
| <b>APPLICATION TYPE</b>   | Development Application (local)   |
| <b>REGIONALLY SIGNIFICANT CRITERIA</b>                          | Section 2.19(1) and Clause 3 of Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021 declares the proposal regionally significant development as: development constitutes Council related development over \$5 million. Council is the land owner and applicant.   |
| <b>CIV</b>  | \$12,133,000 (excluding GST)  |
| <b>CLAUSE 4.6 REQUESTS</b>                                      | None  |
| <b>KEY SEPP/LEP</b>   | <ul style="list-style-type: none"> <li>• State Environmental Planning Policy (Industry and Employment) 2021</li> <li>• State Environmental Planning Policy (Planning Systems) 2021</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>• Concept Approval MP07_0027 Mod 1</li> <li>• Shellharbour Local Environmental Plan 2013;</li> <li>• Shell Cove Precinct D Urban Design Guidelines - Amendment 2</li> <li>• Shellharbour Development Control Plan 2017</li> <li>• Local Infrastructure Contributions Plan 2019 (9th Review – Amendment 1)</li> </ul> |
| <b>TOTAL &amp; UNIQUE SUBMISSIONS ISSUES KEY IN SUBMISSIONS</b> | None  |
| <b>DOCUMENTS SUBMITTED FOR CONSIDERATION</b>                    | Architectural Plans<br>Signage elevations<br>Shadow diagrams<br>Acoustic report<br>Landscape plans  |

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|   | Access report<br>Plan of Management<br>Waste Management Plan<br>Utility Report<br>Section J Report   |
| <b>SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)</b> | None   |
| <b>RECOMMENDATION</b>                               | Approve subject to recommended conditions  |
| <b>DRAFT CONDITIONS TO APPLICANT</b>                | Yes  |
| <b>SCHEDULED MEETING DATE</b>                       | 22 November 2023   |
| <b>PLAN VERSION</b>                                 | Architectural Plans<br>DA000 rev. P3 dated 03.08.2023<br>DA001 rev. B dated 19.06.2023<br>DA0100 rev. D dated 13.09.2023<br>DA101 rev. C dated 27.09.2023<br>DA102 rev. B dated 19.06.2023<br>DA400 rev. D dated 13.09.2023<br>DA401 rev. E dated 27.09.2023<br>DA450 rev. A dated 19.05.2023<br>DA750 rev. B dated 21.06.2023<br>DA980 rev. B dated 21.06.2023<br>Landscape report issue 2 dated 25.05.2023 |
| <b>PREPARED BY</b>                                  | Madeline Cartwright  |
| <b>DATE OF REPORT</b>                               | 14 November 2023   |

## EXECUTIVE SUMMARY

### Reason for consideration by the Southern Regional Planning Panel

The application is being referred to the Panel due to the proposal having a capital investment value of \$12,133,000. Council is the owner of the land on which the development is to be carried out and the applicant. The Shell Cove Project is a collaboration between Shellharbour City Council and Frasers Property Australia.

In this regard, the development is classed as Regionally Significant development under State Environmental Planning Policy (Planning Systems) 2021, under Schedule 6, Section 3(b). Under Part 2, Division 2.4, Section 2.15 (a) of the *Environmental Planning and Assessment Act* 1979 (the Act hereafter) the functions of the consent authority are conferred on the Regional Planning Panel for the area (Southern).

## **Proposal**

The proposal seeks consent for the construction of a two-storey building comprising of a community centre and visitor information centre on the ground floor, with public amenities and a public library on the first floor.

## **Exhibition**

The proposal was notified in accordance with the Shellharbour Community Participation Plan 2021. No submissions were received.

## **Conclusion**

The proposed development has been assessed in accordance with the relevant prescribed matters for consideration as outlined in Section 4.15 of the Environmental Planning and Assessment Act 1979.

The proposed development is classified as a community facility and information and education facility, both are permissible with consent in the E1 zone (Local Centre), pursuant to the Shellharbour Local Environmental Plan 2013. The proposal is generally consistent with the Shell Cove Boat Harbour Concept Plan 07\_0027 MOD 1 (Concept Approval) and Urban Design Guidelines applicable to the site.

Generally, the proposal is consistent with the relevant Environmental Planning Instruments including the SEPP (Resilience and Hazards) 2021 and SEPP (Transport and Infrastructure) 2021.

It is considered unlikely that the proposal would result in adverse impacts on the character of the area or the amenity of the surrounding area, environment and adjoining properties.

A range of conditions are recommended as part of Attachment A to ensure that any potential impacts are appropriately addressed and managed.

## **Recommendation**

DA0350/2022 be determined by way of approval, subject to the conditions provided at Attachment A.

Draft conditions have been sent to the applicant prior to submission of this report.

## 1. THE SITE AND LOCALITY

### 1.1 The Site

The site is located at 2 Waterfront Promenade Shell Cove NSW 2529 and the title reference is Lot 4023 DP 1254658. The site is irregular in shape and falls from north to south by approximately 200mm. The site currently contains a temporary viewing platform which will be removed prior to construction and the remainder of the site is currently a public grassed open space. The site has a total area of 843 Square Metres and road frontage to Waterfront Promenade to the west of the site. The site is flood affected under the Shell Cove Flood Study.

A location map is included at figure 1 below and an aerial photograph of the site is provided at figure 2 below.

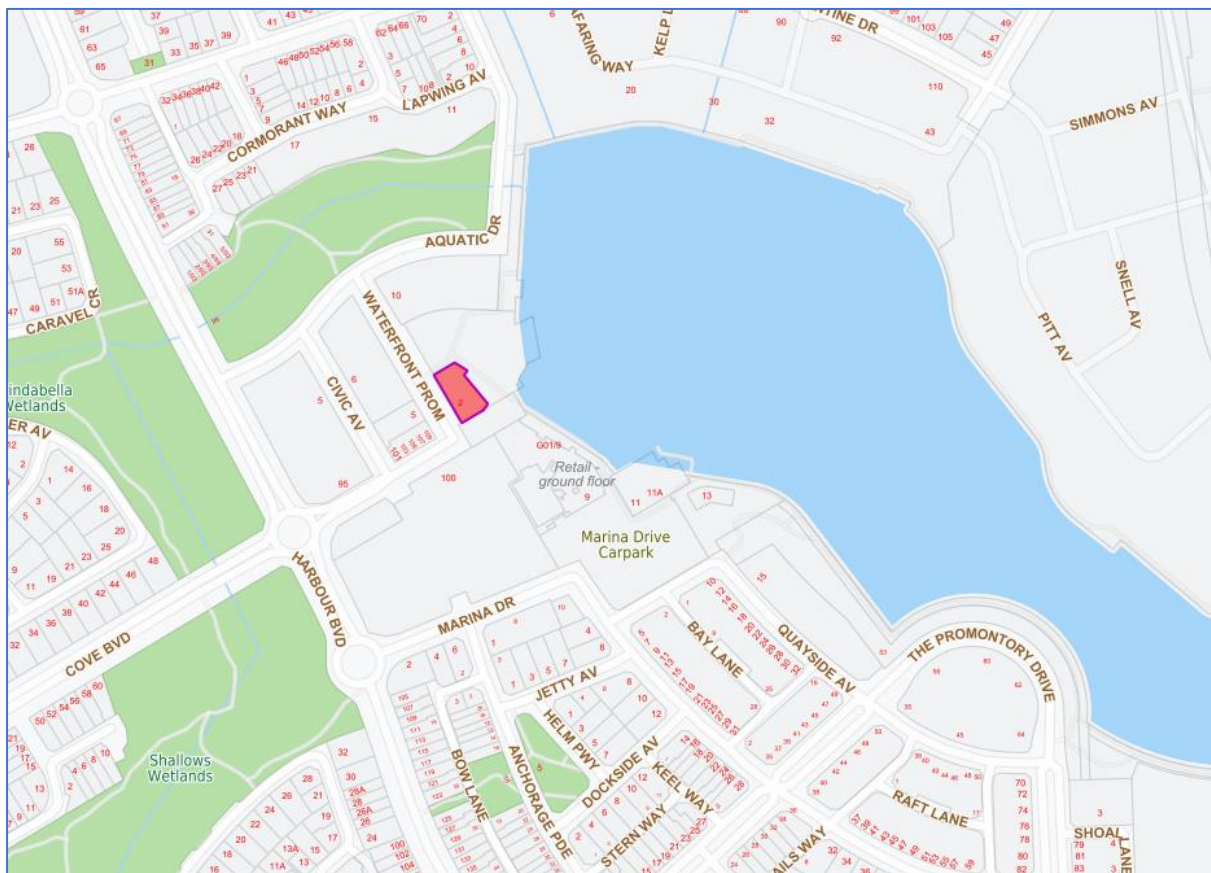


Figure 1 - Location Map (site marked in red)



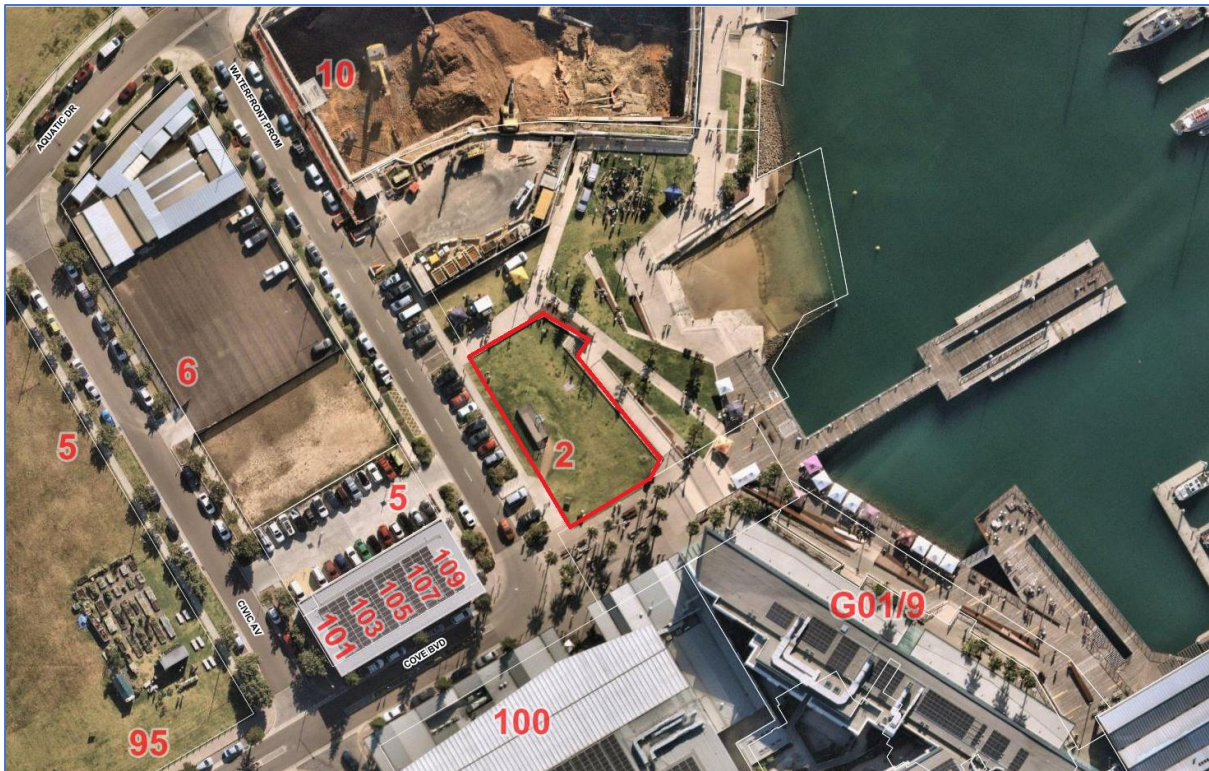


Figure 2 - Aerial Photo (site outlined in red)

## 1.2 The Locality

Adjoining development includes Shell Cove Town Centre to the south and south west, and marina to the east.. A future park is to be located adjoining the subject site to the north, beyond that is the construction site for a hotel building with residential units above. Future residential flat buildings have been approved but not yet commenced to the north west, the land is currently being utilised for construction works in the area. Figure 3 identifies the existing and approved uses within the locality. Attachment D contains a location map and photos of the surrounding existing development, Attachment E contains a location map and artists impression of surrounding emerging context (approved but not yet completed).

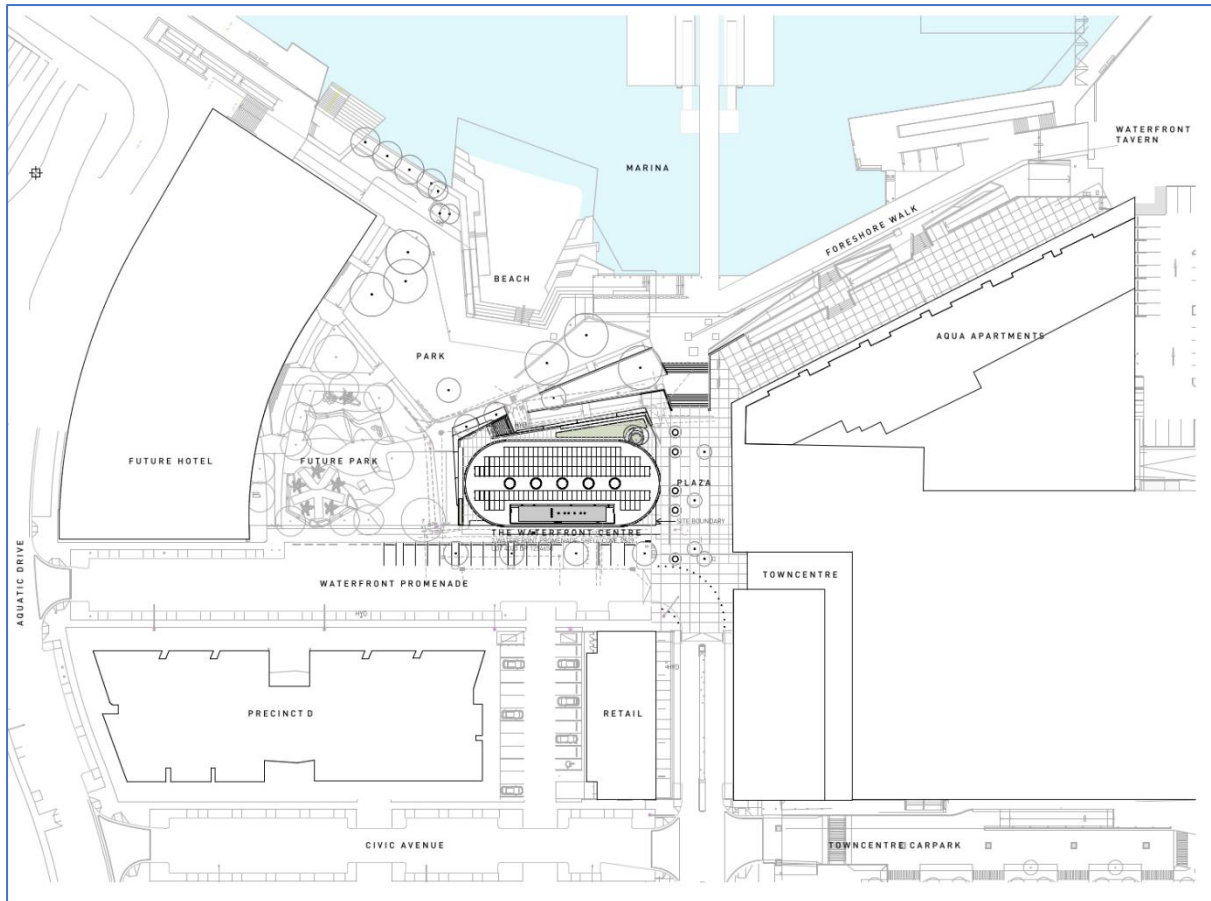


Figure 3 - Locality Plan

## THE PROPOSAL AND BACKGROUND

### 1.3 The Proposal

The proposal seeks consent for the construction of a two-storey building comprising of:

Ground floor

- Community Centre including
  - A function space with capacity for 110 patrons
  - Public amenities
  - Two multipurpose rooms available for hire for the public
  - Kitchen and staff facilities
- Visitor information centre

First floor

- Public library

Development also includes five signage zones on Waterfront Promenade elevation and associated landscaping works including the installation of benches, planter boxes and lawn.

#### Hours of Operation

Library

- Wednesday – Friday 10am till 5pm

- Saturday and Sunday 10am till 3pm

#### Visitor Information Centre

- Open 7 days per week 9am till 5pm including most public holidays

#### Community Facilities

- Function room – available for bookings: Monday – Friday 9am till 5pm, Saturday, Sunday and Public holidays 9am till 11pm with outdoor area available till 9pm.

#### Meeting rooms – available for bookings:

- Monday – Friday 10am till 5pm,
- Saturday and Sunday 10am till 3pm

Public Amenities open 7 days from dawn till dusk, will be locked after dark.

**Table 1: Development Data**

| Control             | Proposal   |
|---------------------|--|
| Site area           | 843 sqm  |
| GFA                 | Total - 1079 sqm<br>Community facility – 203 sqm<br>Library – 517 sqm<br>Visitors centre – 96 sqm<br>Circulation – 61 sqm<br>Amenities – 32 sqm<br>Back of House – 38 sqm  |
| FSR                 | 1.27:1   |
| Clause 4.6 Requests | Not applicable.<br>Council mapping identifies site as 1.5:1  |
| Max Height          | 9.85 metres  |
| Landscaped area     | 44.85 sqm (0.05% of site)  |
| Car Parking spaces  | Nil spaces provided on site.<br>Traffic study included within the Design Guidelines for Precinct D requires 17 spaces for the library and community use. These are to be provided at grade within the Town Centre via on street parking and within existing public car parks.  |
| Setbacks            | Ground Floor<br>minimum 0 metre setback on western boundary (Waterfront Promenade)<br>minimum 3.9 metres setback on northern boundary (Future park)<br>minimum 4.1 metres setback on eastern boundary (Marina)<br>minimum 1.7 metre setback on southern boundary (Town Centre)<br><br>First floor<br>minimum 0 metres setback on western boundary<br>minimum 2 metres setback on northern boundary<br>minimum 1.8 metres on eastern boundary |

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|  | minimum 0.8 metres on southern boundary |
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## 1.4 Background

A pre-lodgement meeting was held prior to the lodgement of the applicant on 18 December 2019 where various issues were discussed. A summary of the key issues and how they have been addressed by the proposal is outlined below:

- a. Building Compliance
  - i. Compliance with Concept Approval required, supporting documents to include GFA of total commercial/retail/community area.
  - ii. Compliance with UDGs
  - iii. Changing of materials to be used on the first floor façade. Proposed timber is maintenance heavy and should be replaced with mod-wood, aluminium or steel.
  - iv. Roof access hatch needs to be shown for access to roof plant.
  - v. Roof plan required
  - vi. Flooding information - Shell Cove will not be affected in the 1% AEP event and PMF event (note: this information was based on previous flood modelling)
- b. Requirement to be sent to Design Review Panel as per Shellharbour Design Review Advisory Panel Policy

The proposal was sent to the Shellharbour Design Review Advisory Panel (DRP) on the 9 March 2020. The following advice summary was received from the DRP:

*A considered design approach has delivered a functional building with a strong sculptural aesthetic. However, the proposal has yet to presented within its future context. In undertaking this exercise, it may be necessary to further refine the proposal. Prior to lodging a development application, consideration should be given to:*

- *developing a more comprehensive contextual analysis*
- *developing a more clearly defined entry*
- *providing detail façade sections*
- *increased external cover connecting the building to the waterfront.*
- *Integration of environmental initiatives.*
- *allowance for the future addition of a roof top garden*

The design of the development has not been altered significantly from this pre lodgement stage and therefore it was not considered necessary to send the lodged proposal back to the DRP. The applicant has provided a breakdown of the DRP advice received and how the proposal has addressed these comments. Table 2 below includes the DRP comments, the applicants response and Council's comments.

**Table 2: Design Review Panel Comments**

| DRP Comment   | Applicant Response   | Council Comment  |
|---|--|--|
| Further contextual information is required to accompany the development application, including: | The Design Report provided clearly depicts the future context through photomontages of the entry, views from the | The context of the precinct is directed through the Concept Approval in terms of land uses, housing yield, height of |



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| <ul style="list-style-type: none"> <li>• view analysis providing distant views of the proposal</li> <li>• contextual perspectives at street level</li> <li>• a more detailed public domain plan with level information</li> </ul> <p>Documentation must clearly show how the proposal relates to the adjacent park (to the north west) and the waterfront (to the north east) and neighbouring buildings.</p>   | <p>park/promenade, and from the waterfront.</p> <p>The ground floor plan provided in the Architectural Drawings shows the location of proposed lawned areas, two planter beds with drought tolerant planting consistent with other areas of the existing public domain, new trees, a variety of public seating and the extent of hardscape. A more detailed public domain plan showing the full extent of the landscaping is also provided within the Landscape Drawings.</p>   | <p>buildings and number of storeys.</p> <p>As the Shell Cove project is continued the context of the proposed building is clearer both onsite and in indicative plans.</p> <p>The applicant has provided contextual plans both existing and emerging which are attached as attachment D and E.</p> <p>The visual impact assessment lodged also displays how the proposed development relates to the neighbouring buildings (existing and future) and the surrounding public domain.</p> <p>The building is seen as an appropriate step between the single storey retail and commercial area (Woolworths etc) to the south and west and the future higher residential developments to the west and hotel to the north.</p> <p>The interface between the public domain and the proposed development is seen as successful with ramped access, along with retaining walls that include planters and seats to achieve level differences whilst still maintaining a human scale.</p> |
| <p>The panel are supportive of the developments made from the initial concept form, which will potentially create a strong landmark building for the precinct.</p> <p>Clear sightlines from all levels the building to the foreshore and park should be prioritized. Further sectional information and more detailed level information on public domain plans should be provided to assist in refining the buildings interfaces with the park and foreshore.</p> <p>The main building entry is not clearly expressed within the form of the building. Its identity is dependent upon brightly</p> | <p>The Design Report provided addresses the proposal's relationship to the park, waterfront, and neighbouring building.</p> <p>It is specifically addressed in the following sections of the Design Report:</p> <ul style="list-style-type: none"> <li>• The Site Analysis plan shows the solar and wind conditions in relation to the site and surrounds.</li> <li>• The Site Analysis section illustrates the compliance and appropriateness of the building height transition.</li> <li>• Design Principle 1 – 'Urban Relationships' demonstrates how the proposal maximises direct and desirable views to the park, water, and plaza. It further demonstrates how the siting</li> </ul> | <p>The proposed development includes a generous ground floor covered area created from the first floor overhang which surrounds the building. This area will provide shade and protection from weather to the ground floor glazing.</p> <p>The interface between the development site and the surrounding public domain has been successfully designed with retaining walls including planters and seating to minimise and break up heights and blank walls.</p> <p>Ramps and stair access is provided up to the site from the Marina.</p> <p>The proposed building includes glazing on all elevations on the first and ground floors to allow</p>  |

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| <p>coloured graphics and a slender awning. Consideration could be given to developing the ribbed façade to create a more clearly defined entry that is integrated into form of the building. Perhaps by splitting and overlapping the ribbed façade a clear point of entry could be created.</p> <p>The roof top will be very visible from the surrounding taller buildings. The roof top should be considered as the fifth elevation, plant should be integrated into the roof top design and screened from view.</p>  | <p>and built form will draw people in and extend the public domain.</p> <ul style="list-style-type: none"> <li>• Design Principle 4 – ‘A Library in the Park’ demonstrates the porous nature of the ground floor which will facilitate continual activation of the public domain.</li> <li>• Renders prepared by Studio Modus show the current and future context of the Site.</li> </ul> <p>Following Pre-DA feedback from consultation with Council and the Design Review Panel, the design has now removed the awning in favour of a more integrated building form. Further, signage zones are proposed to assist with wayfinding from the public domain.</p> <p>The roof top plant has been set at a lower level to the main roof. In addition to this, and in consultation with acoustic and mechanical engineering consultant team, the roof top plant is enclosed behind a louvered (sides and top) structure</p> | <p>views across the future park, town centre, foreshore and beyond to the Marina and the Ocean beyond.</p> <p>The main entrance to the development is suitably clear in the design whilst still maintaining the iconic tug boat shape of the building. The signage is used effectively to highlight the building entrance and different uses.</p> <p>The roof top design has been re-considered from pre lodgement stage to include a sunken area for plant to be stored. This area is on the western most point of the roof which allows easier access for maintenance and also reduces views from neighbouring higher buildings due to the angle. The roof design has incorporated porthole type sky lights which add interest to the roof elevation.</p> |
| <p>This is a landmark building that should aim to meet the highest environmental standards, consideration should be given to:</p> <ul style="list-style-type: none"> <li>• harvest rainwater for use in maintaining planting</li> <li>• water minimization measures, including the reuse of rainwater for toilet flushing</li> <li>• solar water heating</li> <li>• photovoltaic cell to accommodate the building power requirements.</li> <li>• Best practice passive solar design and natural ventilation.</li> </ul> | <p>A Preliminary Section J report has been prepared by Inhabit Australasia Pty and is provided. The report assesses the proposed development against Part J1 Building Fabric of the NCC 2022 Section J deemed-to-satisfy (DTS) requirements. The proposed development incorporates minimal turf and proposes planting drought and salt water tolerant species. The proposal also seeks include water efficient fixtures which will be specified to reduce water usage. Although there is no provision under this DA, there is potential capacity for future provision of solar hot water heating. As the building is mostly in use during the day it is anticipated that the roof top PV system will be primarily used to offset energy consumption. The proposal includes 136 roof mounted PV solar panels resulting in a 50-60kW system.</p>   | <p>Section J report provided identifies that the building will suitably comply with the requirements of the NCC. The design allows suitable future improvements can be made to the building if and when budgets allow.</p>  |

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|  | <p>The PV system will cover a significant portion of the energy consumption during operational hours. Provisions have been made for a rooftop battery to be added at a later stage. The Waterfront Centre has been designed with passive solar design principles through consultation with the client, specialist facade engineer, specialist ESD engineer and structural engineer. These principles include:</p> <ul style="list-style-type: none"> <li>• Maximisation of natural light for all rooms and functions</li> <li>• Introduction of natural light at the centre of the building, usually the darkest area, through 5 large skylights</li> <li>• Incorporation of a deep overhang (2-2.5m) on the ground floor that provides shelter and shading to all glazing.</li> <li>• Natural ventilation of ground floor with perimeter operable doors and ventilation louvers for fresh air supply</li> <li>• The use of thermal mass of concrete floors to moderate the internal temperature.</li> <li>• Integration of structural sun shading blades on Level 1 timber façade which will evenly shade the glazed and solid portions of the façade throughout the year.</li> <li>• A mechanical ventilation system to supply fresh air on Level 1 to ensure maintenance of book collection.</li> </ul> |   |
| <ul style="list-style-type: none"> <li>• The internal / external flow of the library building into the landscape may warrant the walls surrounding the library GF terrace being lowered, removed or replaced with a more activated edge including seating or planting.</li> <li>• Given the glass facade of the ground floor facing the harbour, views from inside towards the water should be considered with regards to the walls currently shown</li> </ul> | <ul style="list-style-type: none"> <li>• Natural ventilation of ground floor with perimeter operable doors and ventilation louvers for fresh air supply</li> <li>• The use of thermal mass of concrete floors to moderate the internal temperature.</li> <li>• Integration of structural sun shading blades on Level 1 timber façade which will evenly shade the glazed and solid portions of the façade throughout the year.</li> <li>• A mechanical ventilation system to supply fresh air on Level 1 to ensure maintenance of book collection.</li> </ul>   | <p>On the northern elevation, where levels dictate, there are existing retaining walls between the future park and the development site. These walls include planters and seating on both sides of the walls. Walls between the proposed building and the Marina have been removed from the proposal.</p> <p>The access path/ramp between Waterfront Promenade running through the future park east towards the Marina has been suitably designed at a suitable</p> |

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| <p>as 1m+ high adjacent to the terrace.</p> <ul style="list-style-type: none"> <li>The small northern courtyard could likewise include an updated landscape design – could trees or planting be included to provide shade in this area. Is a wall the most appropriate edge condition along this northern edge. It was explained that a road/ramp exists along this boundary so perhaps a more detailed context plan could be provided to further explain this.</li> <li>It was explained that the roof has been earmarked as a potential future opportunity for an accessible roof garden. This would be an appropriate addition if financially viable in the future given the outlook and location. The arrangement of the plant and solar panels should be considered now to allow for a meaningful roof garden to be added without prohibitive retro-fit costs preventing the project in the future</li> </ul> | <p>The 1m wall referred to in this comment is no longer being considered as a part of this proposal. Low level seating and planters boxes frame the external terrace maintain views out to the water. The steps and ramps on the eastern elevation provide a seamless connect to the adjacent parks.</p> <p>The public domain elements of the ramp and balustrades are existing and documented within the Design Report. In response to consultation feedback, the landscape design of the north-east 'courtyard' has been revised to include a lawn, a planter bed with 3 new trees and low-level seating.</p> <p>Following further feedback from Council, no rooftop garden or the provision for a future garden are proposed under application. The use of the roof has been primarily for the purpose of solar panels</p> | <p>grade. The retaining wall to the south of the pathway will include built in seating. The roof includes plant and solar panels, no roof garden is proposed or envisaged for the future. The abundance of public open space surrounding the development is seen as sufficient (and in accordance with the Concept Approval) to meet the needs of the community and visitors.</p> |
| <p>Consideration must be given at this stage of the design process to integrated signage into the aesthetic of the building. All required signage must be included as part of the final DA drawing package.</p>  | <p>Consent is sought for five (5) signage zones which are identified on the Architectural Drawings.</p>   | <p>The signage proposed is considered compliant with relevant EPIs and Council requirements. The signage design is considered suitably integrated and appropriate.</p>  |

The development application was lodged on 23 June 2023. A chronology of the development application since lodgement is outlined below in table 2 including the Panel's involvement (briefings, deferrals etc) with the application:

**Table 3: Chronology of the DA**

| Date         | Event                            |
|--------------|----------------------------------|
| 13 July 2023 | Exhibition of the application    |
| 7 July 2023  | DA referred to external agencies |

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| 18 July 2023      | <p><b>Initial request for Information from Council to applicant:</b></p> <ul style="list-style-type: none"> <li>• Amended floor plans to comply with PMF plus freeboard.</li> <li>• Justification for BCA compliance with number of sanitary facilities, specifically at first floor level.</li> <li>• Additional ground floor storage areas.</li> <li>• Anti-bird roosting design changes required.</li> <li>• Clarification of patron numbers in Plan of Management</li> <li>• Clarification of alterations to Waterfront Promenade.</li> <li>• More detailed landscape plan.</li> <li>• Acoustic Report to updated to provide for: <ul style="list-style-type: none"> <li>○ Justification required of the assessment methodology used for modelling</li> <li>○ Updating of plan of management required to include controls for patron noise, music, outdoor space usage, hours of operation and alcohol restrictions.</li> </ul> </li> </ul>  |
| 10 August 2023    | Amended plans and additional information lodged dated 10 August 2023 accepted by Council under CI 38 of the 2021 EP&A Regulation on 11 August 2023, responding to initial request or information.  |
| 11 August 2023    | <p><b>Second request for information from Council to applicant:</b></p> <ul style="list-style-type: none"> <li>• Response to flooding levels and acoustic report insufficient.</li> <li>• Request for exemption to Contributions payable to be submitted which addresses relevant matters in the Contribution Plan.</li> </ul>   |
| 12 September 2023 | <p><b>Panel briefing.</b></p> <p>Key Issues discussed</p> <ul style="list-style-type: none"> <li>• Site history and planning controls</li> <li>• Non-compliance with SLEP 2013 CI 5.21 - Flood Planning, and Clause 31 of SDCP relating to acoustic protection for noise sensitive uses</li> <li>• Referrals and concurrences</li> <li>• Community consultation complete with no submissions received</li> <li>• Council requested further information on 18 Jul 2023 which included a request for amended floor plans to comply with PMF, confirmation and justification in relation to BCA compliance, the need for additional ground floor storage, anti-bird roosting design changes, clarification of patron numbers in POM, clarification of alteration to Waterfront Promenade, landscape plan details, and acoustic report updates.</li> <li>• Amended plans and further information were received 10 August 2023</li> <li>• Additional request for Information regarding flood levels, the acoustic report, and potential exemption to contributions payable sent 11 August 2023.</li> <li>• Key issues for assessment include compliance with Concept Approval, Design Guidelines for Precinct D, potential noise impacts on nearby existing and future residential apartments, flood impacts, provision of public amenities on first floor level (library), construction scheduling, and management of impacts on existing public space.</li> </ul> |

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|                          | <ul style="list-style-type: none"> <li>• The Panel asked questions relating to the following matters. <ul style="list-style-type: none"> <li>• The design and scale of the development</li> <li>• Justification as to why the library is not located on the ground floor</li> <li>• Solar access to the library</li> <li>• Hours of operation of the library and visitor centre and consistency with the Plan of Management</li> <li>• Access to toilet facilities on the library level</li> <li>• Clarification whether facilities were open dusk to dawn as stated in DA as opposed to dawn to dusk</li> <li>• Impact of flooding at PMF on the overall design including the entry foyer, and whether there was flood free access.</li> </ul> </li> </ul> |
| <b>21 September 2023</b> | <b>Record of Briefing issued by Secretariat</b><br>Amended plans and additional information lodged dated 21 September 2023 accepted by Council under CI 38 of the 2021 EP&A Regulation on 22 September 2023, responding to second request for additional information (11 August 2023).  |
| <b>22 September 2023</b> | <b>Third Request for additional information issued by Council:</b> <ul style="list-style-type: none"> <li>• Need for public amenities within the first floor library.</li> <li>• Information regarding construction scheduling and management of impacts on existing public domain areas.</li> <li>• Amended acoustic report.</li> <li>• Updated Plan of Management including the following information: <ul style="list-style-type: none"> <li>○ How outdoor area is to be managed particularly in relation to the consumption of alcohol.</li> <li>○ How amplified music is to be managed.</li> </ul> </li> <li>• Contribution exemption request letter to be amended to refer to relevant lot and DP/street address.</li> </ul>                          |
| <b>6 October 2023</b>    | Amended plans and additional information lodged dated 6 October 2023 accepted by Council under CI 38 of the 2021 EP&A Regulation on 10 October 2023, responding to the third request for additional information (22 September 2023).  |

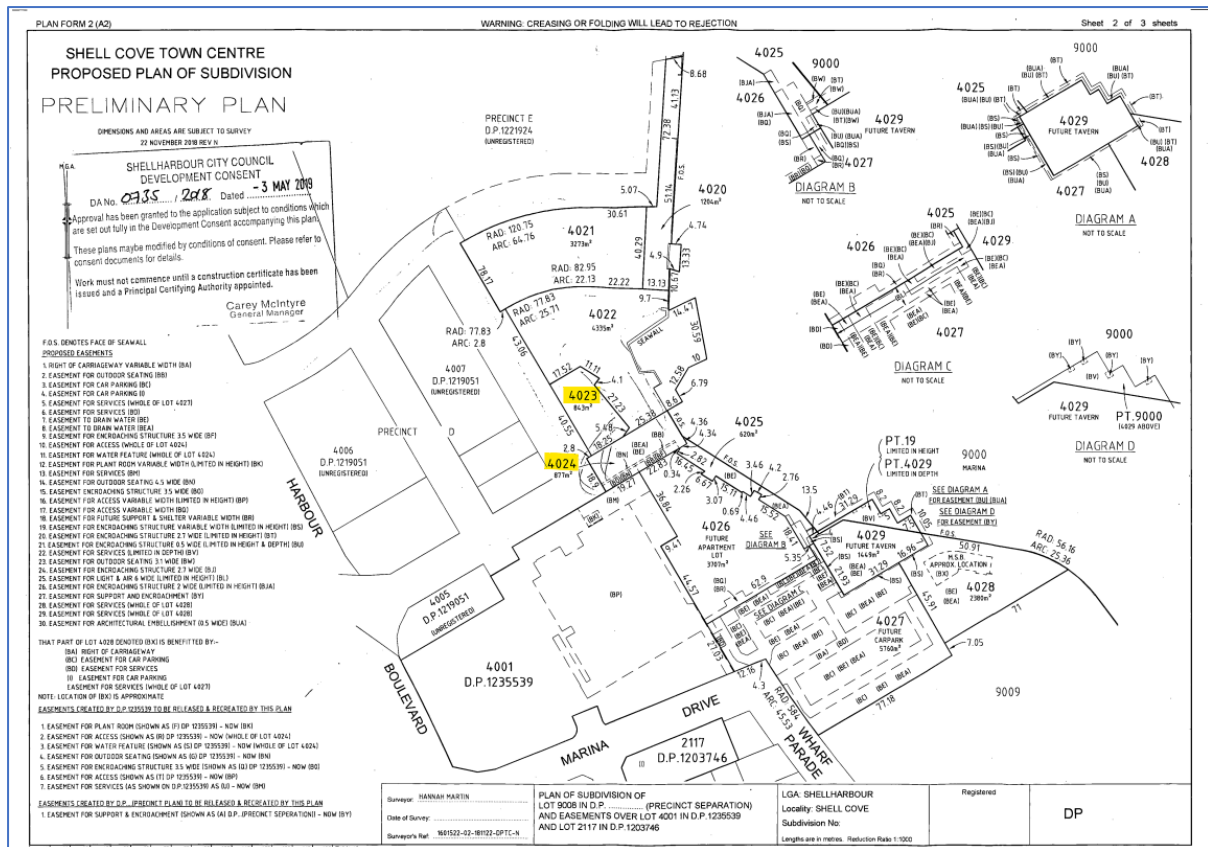
## 1.5 Site History

The development site falls within the Shell Cove Boat Harbour Precinct, a master planned estate approved under the Major Project Approval Shell Cove Boat Harbour Precinct Concept Plan, Concept Approval No. 07\_0027 mod 1 (Concept Approval).

The masterplan comprises of residential, commercial, community facilities, retail, hotel, business park, dry boat storage facility, open space and wetlands. The Concept Approval was accompanied by a masterplan that sought to establish the characteristics for development within each precinct. Further detail regarding the background of the Shell Cove Boat Harbour Precinct Concept Plan is included as attachment F of this report.

Lot 4023 and 4024 was created under DA0735/2018 approved by Council in May 2019. Figure 4 below shows the approved subdivision plan with the lots subject of this application highlighted.





## 2. Planning Controls

## 2.1 Biodiversity Conservation Act 2016

Section 1.7 of the Environmental Planning and Assessment Act 1979 (EP&A Act) provides that the Act has effect subject to the provisions of Part 7 of the [Biodiversity Conservation Act 2016](#) (BC Act).

Part 7 of the BC Act relates to Biodiversity assessment and approvals under the EP&A Act where it contains additional requirements with respect to assessments, consents and approvals under this Act.

In this instance, no native vegetation is proposed to be removed and therefore the proposal does not trigger the requirement for a biodiversity offset scheme

## 2.2 Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017

Schedule 2 of the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017 (Savings and Transitional Regulations) relates to transferred transitional arrangements on repeal of Part 3A—former Schedule 6A to the Act. The Savings and Transitional Regulations apply to this development application as site is within the Shell Cove Boat Harbour Precinct Concept Plan (MP07\_0027 mod 1) which was determined under the repealed Part 3A Major Projects provisions.

Under the transitional provisions, environmental planning instruments will apply but only to the extent that they are consistent with the approved Concept Plan. The provisions of any environmental planning instrument or 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 Regulations also requires that a Consent Authority must not grant consent under Part 4 of the Act for the development unless it is satisfied that the development is generally consistent with the terms of the approval of the concept plan.

### **2.3 Concept Approval – MP07\_0027 Mod 1**

In accordance with the Concept Approval the application site is identified as community use, with a maximum height of 15 metres, up to three storeys. A full assessment against the Concept Approval is included as attachment G of this report. The proposal is generally consistent with Concept Approval as required by the Savings and Transitional Regulations. Figure 5 below shows the subject site outlined in black within the Housing Typologies Plan from the Section 75W modification revised Concept Plan design report response to submissions dated July 2018. This figure identifies the site use as community.

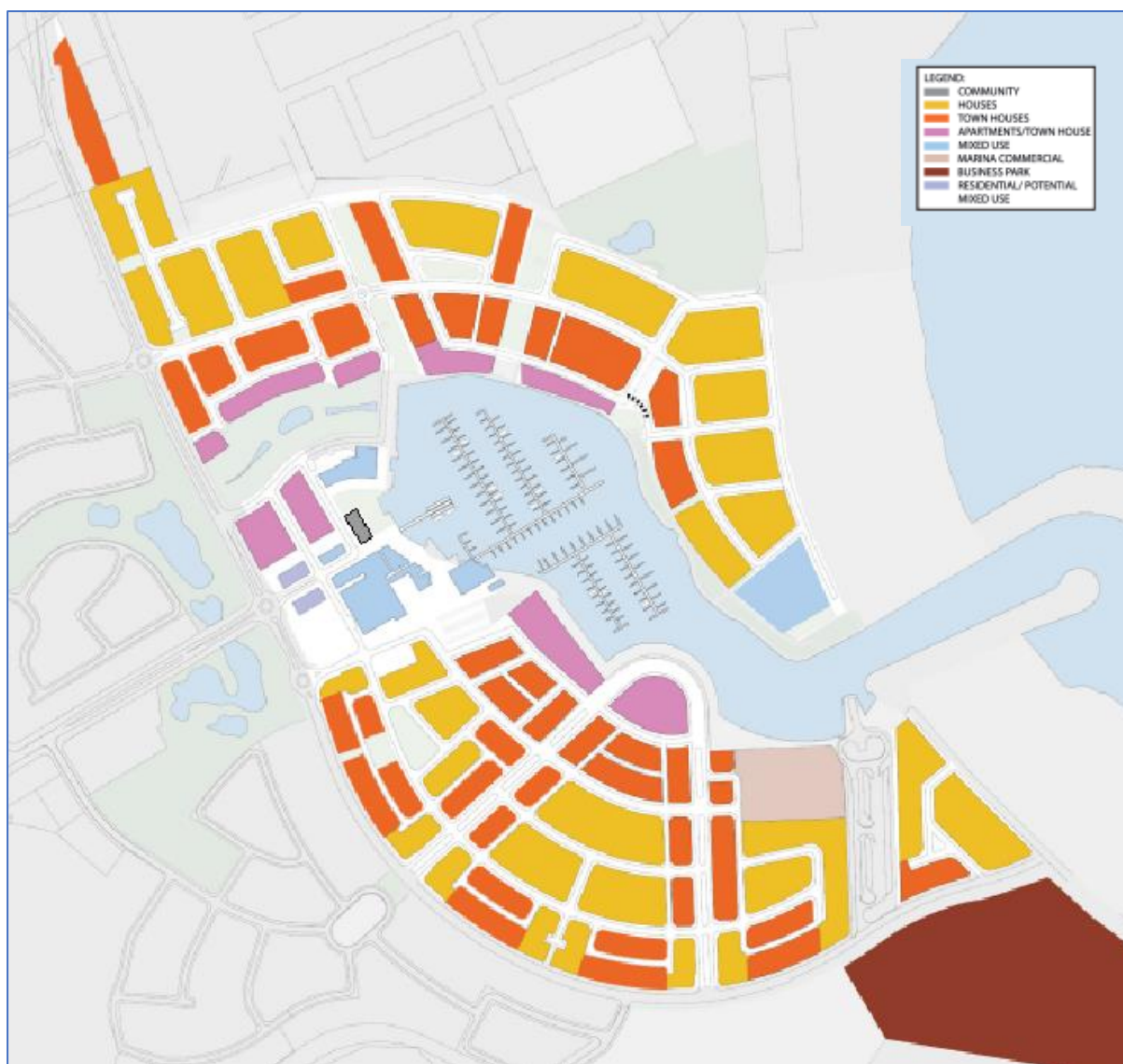


Figure 5 - Housing Typologies Plan from Section 75W modification revised Concept Plan design report response to submissions dated July 2018.

Figure 6 below is an extract from the Height Plan from the revised Concept Plan report as above with the subject site in olive green, the site is identified as a maximum of 15 metres in height and three storeys.



Figure 6 - Extract of Height Plan from Section 75W modification revised Concept Plan design report response to submissions dated July 2018

### 3. STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
    - (i) *any environmental planning instrument, and*
    - (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), and*
    - (iii) *any development control plan, and*
    - (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
    - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*
- that apply to the land to which the development application relates,*

- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

It is noted that the proposal is considered to be a local Development Application.

### **3.1 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations**

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

#### **(a) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments**

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Industry and Employment) 2021*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *Shellharbour Local Environmental Plan 2013*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in table 4 and considered in more detail below.

**Table4: Summary of Applicable Environmental Planning Instruments**

| <b>EPI</b>   | <b>Matters for Consideration</b>  | <b>Comply (Y/N)</b> |
|--|---|---------------------|
| State Environmental Planning Policy (Industry and Employment) 2021 | Chapter 3: Advertising and Signage <ul style="list-style-type: none"> <li>• Section 3.6 – granting consent to signage</li> <li>• Section 3.11(1) – matters for consideration</li> <li>• Schedule 5</li> </ul>   | Y                   |
| State Environmental Planning Policy (Planning Systems) 2021        | Chapter 2: State and Regional Development<br>Section 2.19(1) and Clause 3 of Schedule 6 declares the proposal regionally significant development as: development constitutes Council related development over \$5 million. Council is the land owner and applicant. | Y                   |
| SEPP (Resilience & Hazards)  | Chapter 4: Remediation of Land <ul style="list-style-type: none"> <li>• Section 4.6 - Contamination and remediation has been considered in the Contamination Report and the proposal is satisfactory subject to conditions.</li> </ul>                              | Y                   |
| Proposed Instruments   | None relevant   | N/A                 |
| Shellharbour LEP 2013  | Compliance table included as attachment G of this report.   | Y                   |



|   |   |   |
|---|---|---|
|   | No variations sought or identified.   |   |
| Shell Cove Precinct D Urban Design Guidelines | Compliance Table included as attachment I of this report. No variations sought or identified.   | Y |
| Shellharbour DCP                              | Chapter 15 – Waste Mitigation and management<br>Chapter 24 – Floodplain Management<br>Chapter 25 – Stormwater Management<br>Chapter 27 – Aboriginal Heritage<br>Chapter 29 – Social Impact Assessment<br><br>Compliance table included as attachment J of this report.<br><br>No variations sought or identified. | Y |

### State Environmental Planning Policy (Industry and Employment) 2021

Signage is proposed comprising of five signs. Signage details were included with the application submission (figure 7 below) and form part of the approved plans and specifications. As such *State Environmental Planning Policy (Industry & Employment) 2021* is applicable.

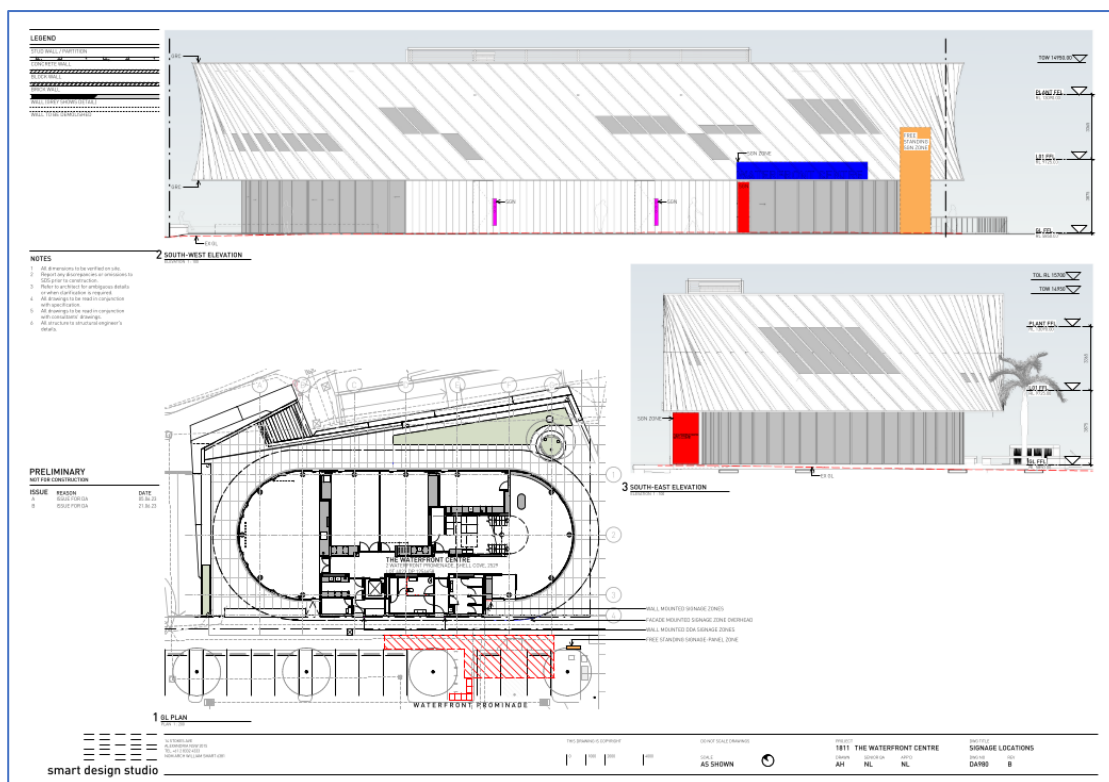


Figure 7 - Signage Locations

#### Part 1 Preliminary

##### Section 3.1 Aims, objectives etc.

**Comment:** The signage proposed is consistent with the aims and objectives of this SEPP, as outlined at section 3.1.

#### Part 3.2 Signage generally

##### Section 3.6 Granting of consent to signage



*A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied—*

- b. that the signage is consistent with the objectives of this Policy as set out in section 3 (1) (a), and*

Comment: The signage is consistent with the aims and objectives of this SEPP, as outlined at section 3.1.

*(b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 5.*

Comment: The signage proposed satisfies the assessment criteria as specified in Schedule 5, a detailed assessment against Schedule 5 included as attachment K of this report. It is noted that the applicant has confirmed that the signs proposed have not been identified as illuminated.

## State Environmental Planning Policy (Resilience and Hazards) 2021

### Chapter 4: Remediation of Land

#### *4.6 Contamination and remediation to be considered in determining development application*

*(1) A consent authority must not consent to the carrying out of any development on land unless—*

*(a) it has considered whether the land is contaminated, and*

*(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*

*(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

*(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subsection (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.*

*(3) The applicant for development consent must carry out the investigation required by subsection (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.*

*(4) The land concerned is—*

*(a) land that is within an investigation area,*

*(b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*

*(c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—  
land—*

*(i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*

*(ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

Comment:

A Phase 2 Site contamination assessment of the Boat Harbour Precinct was submitted with the Preferred Planning Report for the Concept Approval. This concluded that no remediation was required for the subject site. A Targeted Investigation Report (TSI Report) was prepared by Douglas Partners and accompanied a previous subdivision DA (DA0143/2016) which relates to the site prior to the creation of the lot under DA0735/2019. The TSI found the Precinct was considered suitable for future development.

The assessment already undertaken is sufficient to allow the determination of this DA subject to an unexpected finds condition recommended within attachment A of this report.

Shellharbour Local Environmental Plan 2013

The relevant local environmental plan applying to the site is the Shellharbour Local Environmental Plan 2013 (SLEP 2013). The aims of the LEP include:

- *to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- *to encourage development that balances ecological sustainability, social justice principles of equality, access, rights and participation and economic viability,*
- *to encourage a range of development, including diversity of housing types, employment, services and recreational opportunities that meet the needs of existing and future residents, visitors, business owners and workers of Shellharbour,*
- *to encourage development that has considered safer by design principles so that potential impacts to life and property from crime is minimised,*
- *to improve connectivity and accessibility in Shellharbour and encourage development that enables walking, cycling and public transport usage,*
- *to minimise risk to the community in areas subject to environmental hazards, particularly flooding, coastal inundation, bush fires, acid sulfate soils and unstable land.*

The proposal is consistent with these aims as the proposal will provide a community facility which will allow uses for arts and cultural activities, provide recreational opportunities for existing and future residents and visitors.

Zoning and Permissibility (Part 2)

The site is located within the E1 Zone (Local Centre) pursuant to Clause 2.2 of the SLEP 2013, see figure 8 below.

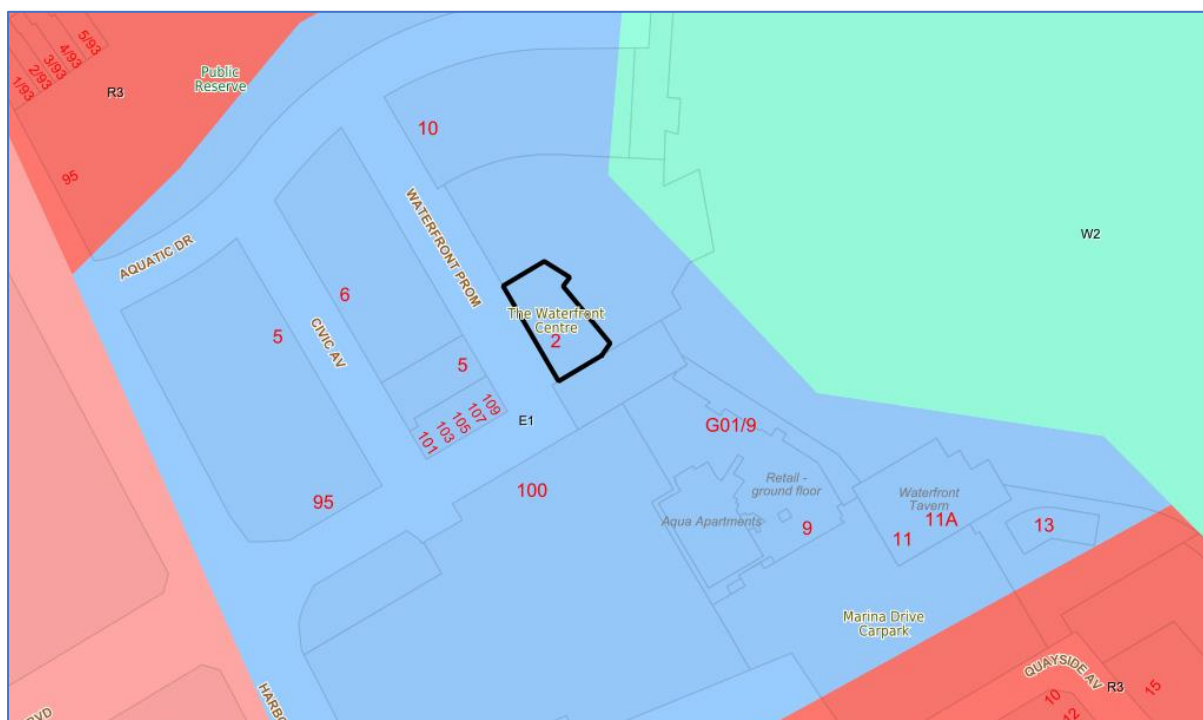


Figure 8 - SLEP 2013 Zoning Map (subject site outlined in black)

According to the definitions in Clause 4 (contained in the Dictionary), the proposal satisfies the definition of Community Facility and Information and Education Facility which are permissible use with consent in the Land Use Table in Clause 2.3.

The zone objectives include the following (pursuant to the Land Use Table in Clause 2.3):

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To allow for a limited range of residential accommodation while maintaining retail, business or other non-residential active uses at street level.*

The proposal is considered to be consistent with these zone objectives for the following reason:

- The community centre, library and visitors centre proposed will serve the needs of the people who live, work and visit the Shell Cove Town Centre.

#### *General Controls and Development Standards (Part 2, 4, 5 and 6)*

SLEP 2013 also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in table 5 below.

**Table 5: Consideration of the LEP Controls**

| Control | Requirement | Proposal | Comply |
|---------|-------------|----------|--------|
|---------|-------------|----------|--------|

|                                       |   |  |                  |
|---------------------------------------|---|--|------------------|
| Minimum subdivision Lot size (CI 4.1) | None  | Lot has already been created under DA0735/2019.  | N/A              |
| Height of buildings (CI 4.3(2))       | 18 metres   | 9.85 metres  | Yes              |
| FSR (CI 4.4(2))                       | 1.5:1   | 1.27:1   | Yes              |
| Flood planning (CI 5.21)              | The objectives of this clause are as follows—<br>to minimise the flood risk to life and property associated with the use of land,<br>to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,<br>to avoid adverse or cumulative impacts on flood behaviour and the environment,<br>to enable the safe occupation and efficient evacuation of people in the event of a flood. | Flood deflection wall included as part of proposal satisfies Council that the objectives of this clause are met.   | Yes (conditions) |
| Stormwater Management (CI 6.4)        | The objective of this clause is to minimise the impacts of urban stormwater on the land to which the development applies, adjoining properties, native bushland and receiving waters.   | Stormwater drainage plans submitted and reviewed by Council Engineers. Objectives of the clause are met.   | Yes (conditions) |
| Essential Services                    | (a) the supply of water,<br>(b) the supply of electricity,<br>(c) the disposal and management of sewage,<br>(d) stormwater drainage or on-site conservation,<br>(e) suitable vehicular access.  | The site has suitable water and electricity supply and infrastructure for sewage management and stormwater drainage as per previous DA0735/2019.<br>Site has frontage onto Waterfront Promenade. | Yes              |

The proposal is considered to be generally consistent with the SLEP 2013. A full compliance table has been included as attachment H of this report. No variations to SLEP 2013 sought or identified.

**(b) Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments**

No proposed instruments relevant to the development.

**(c) Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan**

The following Development Control Plan is relevant to this application:

- *Shell Cove Precinct D Urban Design Guidelines (UDGs)*

No Variations have been sought or identified. The site is within the Community Area as identified within the UDGs and the relevant chapters have been addressed as a compliance table included as attachment I of this report.

- *Shellharbour Development Control Plan 2013 ('the DCP')*

*No variations have been sought or identified, relevant chapters as follows:*

- Chapter 10 – Advertising and Signage
- Chapter 15 – Waste Mitigation and Management
- Chapter 24 – Floodplain Management
- Chapter 25 – Stormwater Management
- Chapter 27 – Aboriginal Heritage
- Chapter 29 – Social Impact Assessment

Compliance table included as attachment J of this report.

The following contributions plans are relevant pursuant to Section 7.18 of the EP&A Act and have been considered in the recommended conditions (notwithstanding Contributions plans are not DCPs they are required to be considered):

- *Local Infrastructure Contributions Plan 2019*

An exemption request under section 2.4.3 of the Local Infrastructure Contributions Plan 2019 was submitted as part of the application. The exemption was granted as the development is to be provided by the public sector with an underlying philosophy of community service, and run on a non-profit basis.

**(d) Section 4.15(1)(a)(iiia) – Planning agreements under Section 7.4 of the EP&A Act**

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

**(e) Section 4.15(1)(a)(iv) - Provisions of Regulations**

Section 61 of the 2021 EP&A Regulation contains matters that must be taken into consideration by a consent authority in determining a development application, no matters relevant to the proposal.

Section 62 (consideration of fire safety) and Section 64 (consent authority may require upgrade of buildings) of the 2021 EP&A Regulation are not relevant to the proposal.

These provisions of the 2021 EP&A Regulation have been considered and are addressed in the recommended draft conditions (where necessary).

### **3.2 Section 4.15(1)(b) - Likely Impacts of Development**

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

The consideration of impacts on the natural and built environments includes the following:

- **Context and setting**

The proposal is considered to be appropriate within the existing and future context of the site. The surrounding development (existing and future) ranges from single storey commercial, 6 storey residential and an 11 storey mixed use hotel/residential development. This range is as identified in the Concept Approval which dictates land uses, heights and number of storeys.

The proposed building is of unique design within the Town Centre which is fitting due to the unique uses proposed within. The design is seen as reflective of the coastal setting and materials and finishes reflect this. The stand alone building will be a key land mark within the Shell Cove area, easily identifiable and of suitable scale to include all necessary amenities but also small and welcoming to all visitors.

- **Access and traffic**

The site has suitable road access and pedestrian access from the Marina and the road network. The site does not provide on site parking or vehicle access. This is in accordance with the Concept Approval and compliant with the relevant Urban Design Guidelines.

Traffic impact assessment and construction management plan submitted and reviewed as part of this assessment is satisfactory.

- **Public Domain**

The proposed development has an interface on the northern, eastern and southern sides with the public domain. Figure 9 below indicates these areas of public domain (highlighted in green) that surround the proposed building.



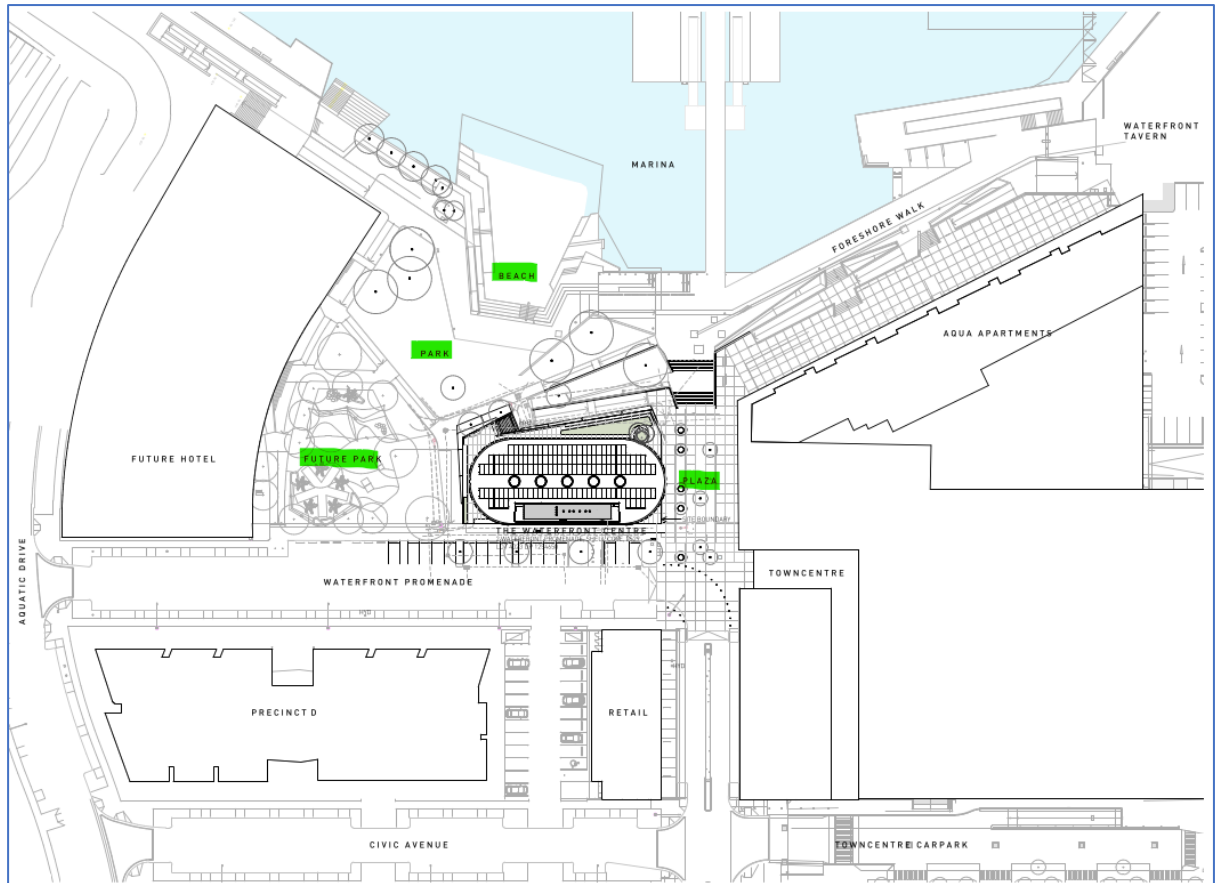


Figure 9 - Location Map Indicating Public Domain (highlighted in green)

The level increase from the marina up to the road means stepped and ramped access is provided, also shown on figure 9 above. The interface with the public domain and the development includes retaining walls along the northern elevation of the site with the future park. This retaining wall has already been approved and constructed in accordance with foreshore DA's. The proposed development will include embellishments of planters and seating within the walls. The landscaping within the proposal site will suitably relate to the existing landscaping around the site and the future landscaping within the future park.

Pedestrian access to the site is available from Waterfront Promenade the foreshore/Marina and the existing commercial town centre development.

- **Utilities**

All essential services with the exception of vehicle access are available at the site. Suitable conditions recommended by Sydney Water have been included as part of the recommended conditions (attachment A).

- **Noise and vibration**

#### Construction

Noise and vibration during construction is to be managed by suitable conditions regarding hours of work and site management.

#### Operation

Discussed in key issues section 5.1 of this report.

- **Natural hazards**

The site is within the Probable Maximum Flood (PMF) area as identified in the latest version of the Shell Cove Flood Study. Flood impact has been identified in the Key Issues section of this report (section 5) with detailed discussion included in this section.

- **Social impact**

The proposed development will provide a sense of place to the Shell Cove town centre with community facilities, a tourist information centre and library for the community and visitors to the area. The Concept Approval envisaged a Town Centre with a range of facilities for residents and visitors from commercial uses, retail, food and drink with the community uses being central to this area. The facilities within the development will allow the community to meet and interact, strengthen existing groups and create new ones.

The Social Impact Assessment submitted as part of the Concept Approval identified a need for the uses proposed to serve the existing and future community of Shell Cove. Given the road network and pedestrian links to Shellharbour village these facilities will also be used by the existing community within this area.

- **Economic impact**

The proposed development will directly provide employment through Council. The facilities proposed will also provide a focal point for the Town Centre activating the centre and attracting people to the area. In turn this will encourage business to local commercial units/retail etc. The development will be Council managed under the Shell Cove Project.

- **Site design and internal design**

The external design of the building is suitably compliant with the Concept Approval in terms of height and number of storeys.

The internal design is divided into three uses which are clearly separated to allow different operating times when required.

The ground floor glazing includes doors around the building which allows access to the public domain surrounding the building and provides suitable light and views to each room.

The first floor includes around the entire floor which provide views of the water, future park and Town Centre. The skylights will also provide daylight to the entire floor.

Public amenities are provided on each floor with external access to the ground floor.

- **Construction**

The site is within the Masterplan area of Shell Cove Marina with various construction work happening in a relatively small area. The site is located adjacent to an existing retail area which is required to continue operating unencumbered during construction.

The site will have road access independent to the retail area, including the main parking area for customers and loading. The future park will be constructed after the proposed development is finished and separate access is proposed so this will not present an issue.

The site is located a suitable distance (approximately 37 metres) from the public foreshore and boardwalk. The construction works will be fenced off with the foreshore and boardwalk still accessible.

An indicative Construction Traffic Management Plan including Construction Area map have been submitted with the application detailing how the project construction will be managed. Figure 10 below indicates the construction area. This shows that the development can be constructed during the ongoing hotel construction and will not impact on the future construction of the approved apartments to the west. The construction will have a temporary impact on street parking, using at least eight spaces as a movement zone. This will be a temporary impact and is expected as part of construction, a suitable condition has been recommended to ensure that all on street parking will be re installed and available for public parking prior to the issue of an Occupation Certificate.

### ***~On Street Parking Spaces***

*Prior to the issue of an Occupation Certificate the on street parking spaces to be utilised during construction are to be reinstated as parking spaces to the satisfaction of Shellharbour City Council.*

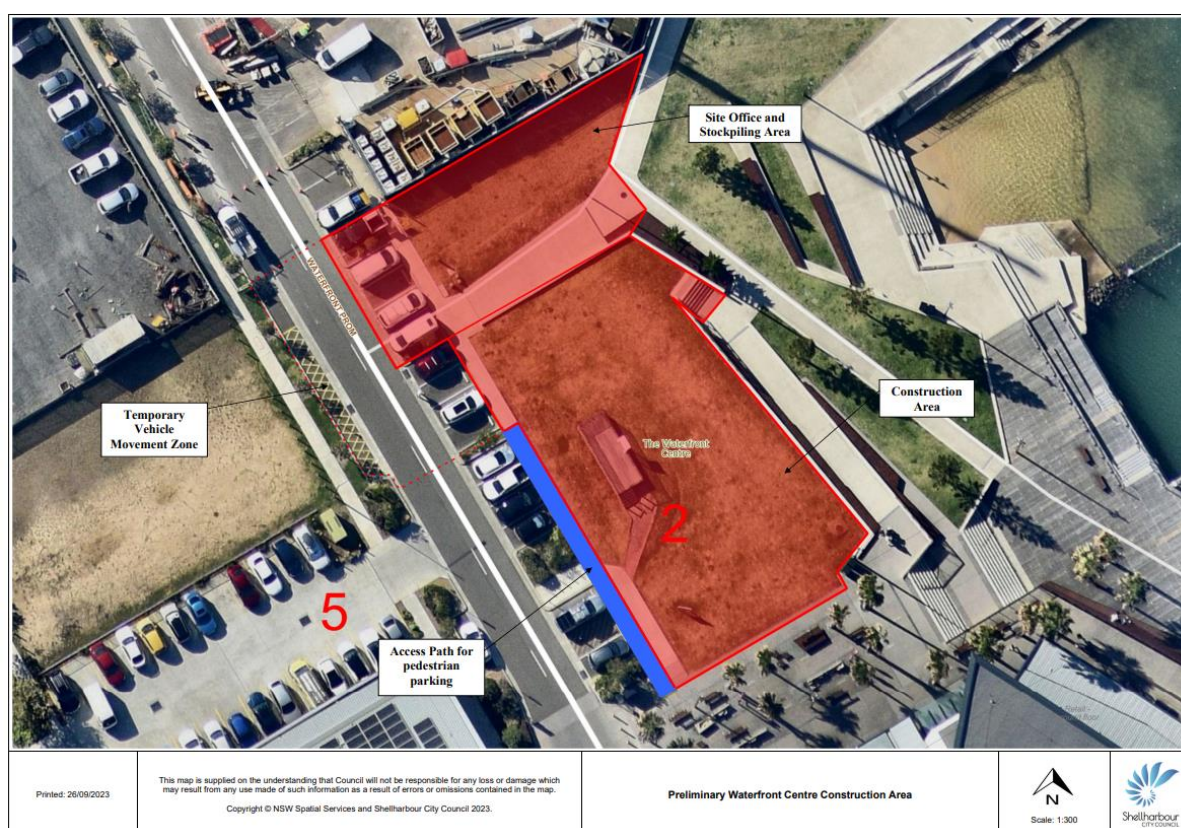


Figure 10 - Constriction Area

The embellishment of the Town Centre Park to the immediate north of the site will occur on completion of the proposed building and the hotel building.

The construction of the proposed building is programmed to commence in January 2025 and is anticipated to be finished in May 2026. An indicative construction management plan submitted in support of the application states that the development of the residential flat building to the west of the site will be at the same time as the proposed building.

Standard working hours condition has been recommended as included in attachment A. A bespoke Construction Traffic Management Plan condition has been recommended as follows:

#### ***~Construction Traffic Management Plan***

*Prior to the commencement of works a Construction Traffic Management Plan is to be submitted to, and approved by, Shellharbour City Council. The Construction Traffic Management Plan is to include the following details:*

- a. construction vehicle routes;*
- b. anticipated number of trucks per day;*
- c. hours of construction;*
- d. Off-street parking areas for construction workers;*
- e. Occupancy of on-street parking spaces during construction;*
- f. Access arrangements; and*
- g. Proposed traffic measures to minimise impacts of construction vehicles.*

- **Visual Impact**

The application is supported by a Visual Impact Assessment (VIA) as required by condition 19 of the Concept Approval. The VIA summarises the development as follows:

*‘the development of the site will have minimal impact on the establishments or maintenance of public views and vistas throughout Precinct D. 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 D.’*

Figure 14 below is taken from the submitted VIA showing the northern elevation of the proposed development with the indicative boundaries and height limit as defined by the Concept Approval. The existing commercial (retail) and shop top housing development and future residential flat building development to be built along Waterfront Promenade shown for comparison.

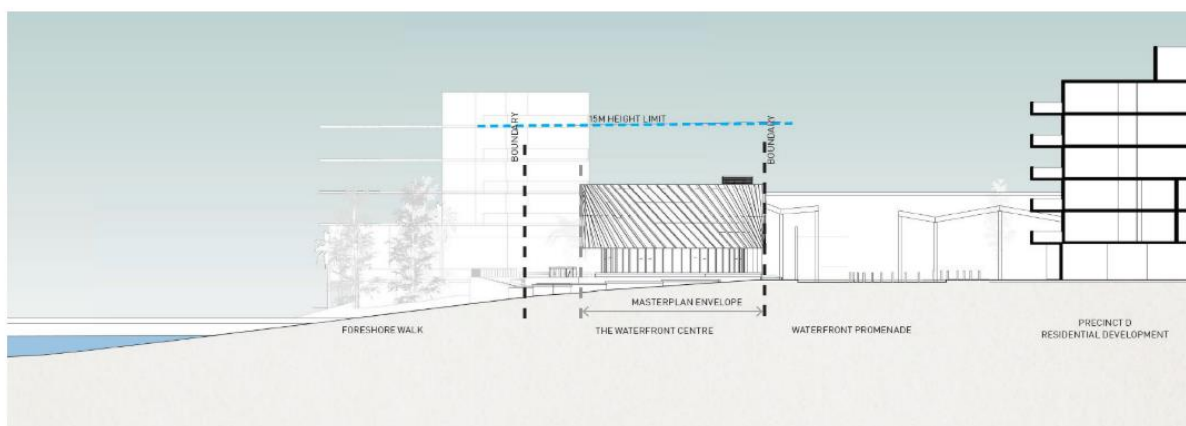


Figure 11 - Elevation showing Concept Plan height/boundary limits

The development will not impact on key views, vista and view corridors within the Town Centre (Precinct D). The building will be of suitable scale and materials for the building use and coastal location.

Accordingly, it is considered that the proposal will not result in any significant adverse impacts in the locality as outlined above.

### **3.3 Section 4.15(1)(c) - Suitability of the site**

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

- a. The Concept Plan identifies the site as a community use;
- b. The building proposed is of an appropriate scale and design within the Town Centre precinct;
- c. There are no contamination issues that would preclude the proposed land use on this site subject;
- d. The flooding hazard to the land is appropriately managed.
- d. The proposal is consistent with the provisions of the Concept Plan and the Design Guidelines for Precinct D.

The development site is a key location within the Town Centre. The building design is suitable for this location and the proposed uses. The site is suitable for the development.

### **3.4 Section 4.15(1)(d) - Public Submissions**

No submissions received.

### **3.5 Section 4.15(1)(e) - Public interest**

The proposal is generally consistent with the Concept Plan Approval and all other relevant policies, subject to conditions of consent. The proposal will provide a development with suitable facilities.

Potential impacts of the development have been identified and addressed subject to the recommended conditions included in attachment A.

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

## **4. REFERRALS AND SUBMISSIONS**

### **4.1 Agency Referrals and Concurrence**

The development application has been referred to various agencies for comment as required by the EP&A Act and outlined below in table 6.

There are no outstanding issues arising from these referral requirements subject to the imposition of the recommended conditions of consent being imposed.



**Table 6: Concurrence and Referrals to agencies**

| Agency  | Concurrence/<br>referral trigger   | Comments<br>(Issue, resolution, conditions)   | Resolved   |
|---|--|---|--|
| <b>Concurrence Requirements</b> (s4.13 of EP&A Act) N/A |  |   |  |
| <b>Referral/Consultation Agencies</b>                   |  |   |  |
|   |  |   |  |
| <b>NSW Police</b>                                       | As development is identified as a community facility a referral for comment was sent to NSW Police in line with Council process. | <p>Current/trending crimes associated in this area are Graffiti Vandalism to public amenities and seating areas and stealing within the grocery store nearby. Often associated with youths participating in anti-social behaviours within the surrounding spaces such as the shopping complex and the marina foreshore.</p> <p>Potential anticipated crimes that this proposed development may bring is malicious damages/vandalism within the public amenities, if not managed, monitored, and secured appropriately.</p> <p>Potential for a location to attract youth anti-social behaviour, dependant on accessibility and timings of Wi-Fi and mobile phone charging ports.</p> <p>Moreover, dependant on the booking criteria for the function room, this venue could potentially bring in noise issues and crime risks and concerns associated with bookings that are permitted to have alcohol catering licenses for the event.</p> <p>Recommendations as follows:<br/>Clarification within the Plan of Management regarding the types of functions permitted for booking within the function rooms which would reflect the statement within the DA Acoustic Report that “the facility is not appropriate for high level amplified music or activities” (pg. 5). 2. A Plan of Management condition not to allow functions within the venue that would permit alcohol consumption on the premises.<br/>3. The Plan of Management, hours of operation for the Function Room and Meeting Rooms, have a specified time limit to reflect an appropriate closing time for all functions.<br/>4. (a) Police recommend that CCTV surveillance cameras shall be strategically installed, operated and maintained throughout the premises with particular coverage to:</p> | <p>Yes<br/>As follows:</p> <ul style="list-style-type: none"> <li>- Suitable noise mitigation conditions recommended as detailed in section 5 - Key Issues section of this report.</li> <li>- Plan of Management to be amended as per condition to restrict alcohol consumption on the premises.</li> <li>- Operating hours conditioned appropriately.</li> <li>- Conditions requiring CCTV as recommended.</li> </ul> |



|  |  |   |                              |
|--|--|---|------------------------------|
|  |  | <p>(i) principal entrance/s and exits;</p> <p>(ii) all areas within the premise occupied by the public (excluding toilets);</p> <p>(iii) staircases in multilevel premises; and</p> <p>(iv) Coverage of all external areas within a 10m radius of the proposed development, particularly covering areas where public seating is proposed and at the external entry doors to the public amenities.</p> <p>(b) Suitable and clearly visible signage be displayed at the principal entrance(s) to the premise and in a prominent position on each floor accessible to the public, in lettering not less than 50mm in height with the words "Closed Circuit Television in use on these premises".</p> <p>(c) All CCTV recording equipment and cameras be of high-grade digital quality capable of establishing the population and identification of patrons, offenders and incidents within the depth of field view of the cameras. In this respect each surveillance camera shall be capable of recording a minimum rate of 10 frames per second and at high resolution.</p> <p>(d) CCTV recording discs or hard drive recordings be retained for 28 days before being re-used, destroyed, or deleted. Time and date shall be auto recorded on the disc or hard drive. The CCTV recording equipment should be capable of reproducing a CD, DVD, or other appropriate digital copy of recorded footage on demand of Council or Police Officers either immediately or within 12 hours of the request being made. Copy discs should be handed to Council, Police Officer or Special Inspectors as required.</p> |                              |
| <b>Sydney water</b>  | Classification of development triggers requirement for Sydney Water advice to be sought. | Sydney Water has reviewed the application based on the information supplied and has provided conditions to assist in planning the servicing needs of the proposed development.  | Yes (conditions recommended) |
| <b>Integrated Development (S 4.46 of the EP&amp;A Act) N/A</b> |  |   |                              |

## 4.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined table 7.

**Table 7: Consideration of Council Referrals**

| Officer | Comments | Resolved |
|---------|----------|----------|
|---------|----------|----------|

|                               |   |                     |
|-------------------------------|---|---------------------|
| <b>Engineering</b>            | Councils Engineering Officer has reviewed the proposal and provided a conditionally satisfactory referral response. Recommended conditions have been included within attachment A.                                | Yes<br>(conditions) |
| <b>Public Food and Health</b> | Council's Public Health Officer has reviewed the proposal and has provided a conditionally satisfactory referral response. Conditions included within attachment A.   | Yes<br>(Conditions) |
| <b>Waste</b>                  | Council's Waste officer has reviewed the proposal and raised no objection.  | Yes<br>(conditions) |
| <b>GIS</b>                    | Council's GIS Officer has reviewed the proposal and has raised no objection.  | Yes                 |
| <b>Contributions</b>          | Councils Contributions Officer has reviewed the proposal and provided advice that an exemption under section 2.4.3 of the Local Infrastructure Plan has been granted.   | Yes                 |
| <b>Landscape</b>              | Councils Landscape Officer has reviewed the proposal and provided a conditionally satisfactory referral response. Recommended conditions have been included within attachment A.                                  | Yes<br>(Conditions) |
| <b>Community Life</b>         | Councils Community Life Officer has reviewed the proposal and provided a conditionally satisfactory referral response. Recommended conditions have been included within attachment A.                             | Yes<br>(conditions) |
| <b>Assets</b>                 | Councils Assets Officer has reviewed the proposal and provided a conditionally satisfactory referral response. Recommended conditions have been included within attachment A.                                     | Yes<br>(Conditions) |
| <b>Environment</b>            | An acoustic consultant has reviewed the application and provided advice regarding noise mitigation. Recommended conditions have been included within attachment A.  | Yes<br>(conditions) |
| <b>Flooding</b>               | Councils Senior Civil Engineer has reviewed the proposal with regard to flooding and provided a conditionally satisfactory referral response. Recommended conditions have been included within the draft consent. | Yes<br>(Conditions) |

The outstanding issues raised by Council officers are considered in the Key Issues section of this report.

### 4.3 Community Consultation

The proposal was notified in accordance with the Shellharbour Community Participation Plan 2021 from 13 July 2023 until 9 August 2023. The notification included the following:

- Three signs placed on the site;
- Notification letters sent to adjoining and adjacent properties within a 100 metre radius – 140 letters in total sent;
- Notification on the Council's website.

The Council received nil submissions.

## 5. KEY ISSUES

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

## 5.1 Noise Assessment

The proposed development is located approximately 20 metres from an existing shop top housing development to the south of the site and approximately 27 metres, from a future residential flat building across Waterfront Promenade to the west, which will have PPOS areas (ground floor and balconies) and living area windows located on the elevation facing the proposed building. The site is also approximately 42 metres from the future hotel building to the north which includes residential units on the top four storeys. Figure 11 below details the location of these surrounding sensitive receivers.

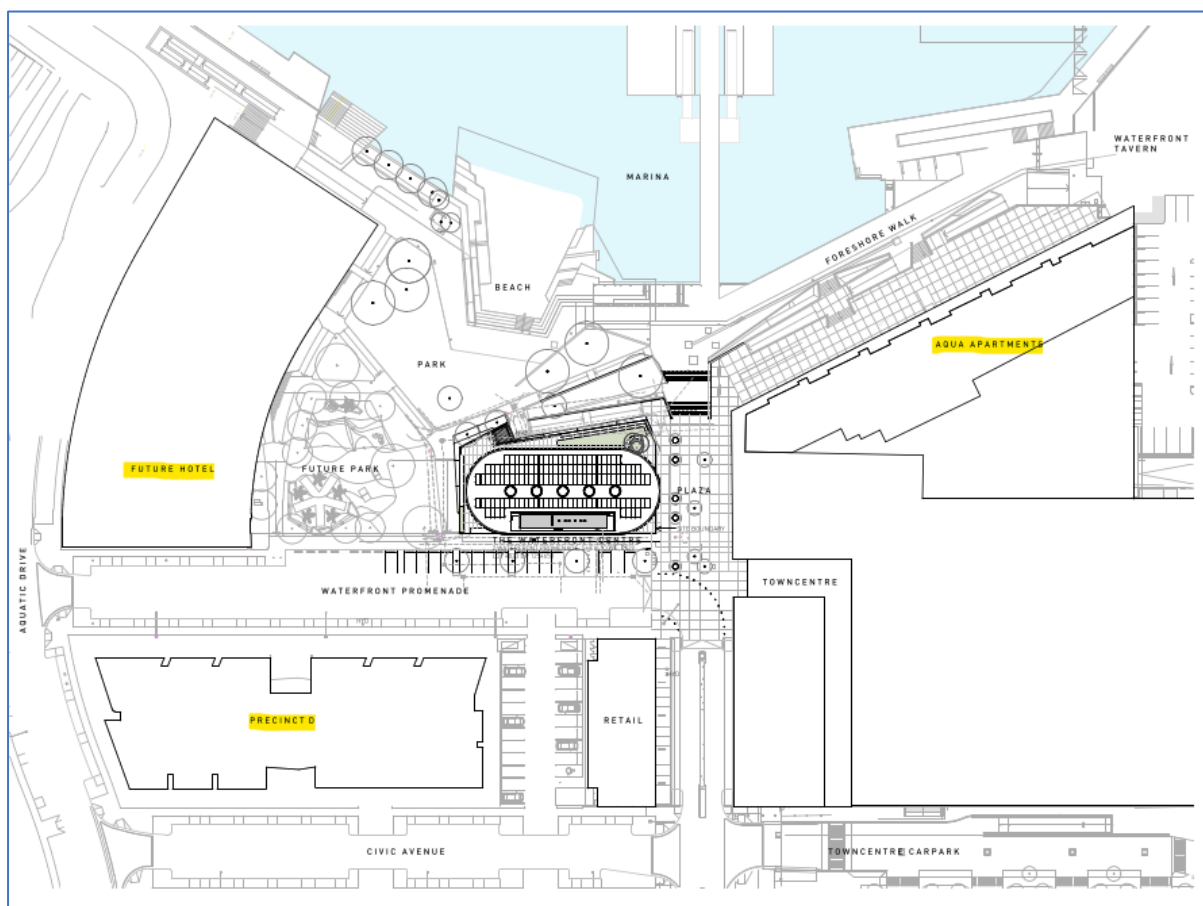


Figure 12 - Location of surrounding sensitive receivers (highlighted)

The application has been supported with an Acoustic Report and Plan of Management which has been reviewed by an external acoustic consultant on behalf of Council with advice and conditions recommended.

### i. Mechanical Plant Noise

The acoustic report recommends an external criterion for the assessment of mechanical plant noise emission (i.e.  $L_{Aeq} \leq 40$  dB measured externally at the closest residential receivers, to achieve compliance internally with the indoor noise levels of Australian Standard 2107).

It is noted that the recommended external criterion is not based on background noise logging as per the requirements of the EPA Noise Policy for industry, Council is supportive of the criterion provided as it generally aligns with the amenity objective and expectation for the precinct (i.e. a vibrant precinct, that allows for reasonable usage of outdoor areas in close proximity to dwellings). This is the same approach as accepted for the existing shop top housing development and the Waterfront Tavern to the south.

The recommended mechanical plant controls for the roof plant are considered reasonable however it is recommended that the detailed design and assessment of mechanical plant should include corrections for potentially annoying characteristics (if required), e.g. humming, low frequency content, tonal, intermittency, etc. In addition, the assessment of mechanical noise impacts during the detailed design stage should consider cumulative noise impacts from mechanical plant servicing the adjacent tenancies (e.g. Town centre, Precinct D, Retail). A condition has been recommended as follows:

#### *~Mechanical Plant Noise*

*Prior to the issue of a construction certificate, a review of the proposed mechanical design must be conducted by a suitably qualified acoustic consultant. The following requirements apply:*

- a. An assessment of noise from the proposed mechanical plant must be based upon the octave band sound power data for the proposed equipment, to be provided by the library services engineer.*
- b. To limit the risk of acoustic disturbance, cumulative noise impacts associated with mechanical plant servicing neighbouring tenancies must be considered.*
- c. The assessment of mechanical plant should include corrections for potentially annoying characteristics if required, e.g. humming, low frequency content, tonal, intermittency, etc.*
- d. The acoustic report shall consider noise emission from the mechanical plant proposed by the services engineer, and based upon the octave band sound power data provided by the services engineer. The predictions should indicate conformance of the Library to the  $L_{Aeq}$  (15 minute) 40dB criterion when measured at the closest affected residential receiver locations.*

*Confirmation that the mechanical design complies with the requirements above (a-d) is to be submitted to the Certifying Authority.*

#### *ii. Assessment of patron/music noise*

It has been noted that the submitted acoustic report does not provide a criterion for the assessment of patron and/or music noise. Although the use of the indoor areas and the function room is low risk, the use of the function room outdoor breakout area by patrons, particularly during the evening and during an event involving alcohol, may pose a risk of disturbance. The lack of an appropriate criterion will also make it difficult for Council to investigate noise complaints should they arise in future.

This has issue has been raised with the applicant with the following response provided from revision 5 of the DA Acoustic Report (page 6):

*The impact of sound on amenity is related to the level, spectral content and impulsiveness of the sound and the distance, reflecting surfaces etc. A single number noise level does not adequately assess the impact of sound on amenity, particularly those that are unable to assess low frequency impulsive sources such as dBA - the A descriptor represents a spectrum that is predominately relevant to speech. Hence, prescribing a recommended maximum dBA for activities within the building is not considered appropriate where general sound levels associated with operation of the spaces are intended to be significantly below those that would result in disturbance to the community.*

The report goes on to suggest a mitigation measure as follows:

*It is recommended that Council [as manager of the facility] provide contact details to the Community for an on-site Council representative who can respond to the Community and has the authority to take appropriate action to manage activities within the Centre.*

Following receipt of advice from the Acoustic Consultant it is recommended that the report be updated to include adoption of the following criteria (based on the indoor noise levels of Australian Standard 2107, and the Sleep Disturbance screening criterion of the EPA Noise Policy for industry:

**Table 1 Recommended Noise Criteria**

| Noise Source     | Time Period      | Noise Criteria [dB]         | Receiver Location                              |
|------------------|------------------|-----------------------------|--|
| Mechanical Plant | Any time         | $L_{Aeq(15minute)} \leq 40$ | Closest affected residential balcony or window |
| Patrons          | Day 7am-6pm      | $L_{Aeq(15minute)} \leq 45$ |  |
|                  | Evening 6pm-10pm | $L_{Aeq(15minute)} \leq 40$ |  |
|                  | Night 10pm-7am   | $L_{Aeq(15minute)} \leq 35$ |  |
|                  | Night 10pm-7am   | $L_{Amax} \leq 52$          |  |
|                  | Night 10pm-7am   | $L_{Amax} \leq 52$          |  |
| Music            | Any time         | $L_{10(15minute)} \leq 35$  | Closest affected residential balcony or window |
|                  | Night 10pm-7am   | $L_{Amax} \leq 52$          |  |

Whilst it is acknowledged that Council will be owner and manager of the facility it is still imperative that noise impacts on nearby sensitive receivers are minimised at the design stage as much as possible. The recommendation that the community are given a number to report noise complaints is supported and is included in the Plan of Management which will form part of the approved documents. However, it is important that noise impact is suitably mitigated where possible prior to complaints being made. In order to achieve this the following condition has been recommended:

*~Plan of Management*

*Prior to the issue of an occupation certificate, an updated Plan of Management must be submitted to Shellharbour City Council for approval. The Plan of Management must include the following additions:*

*a. the mechanical plant, patron and music noise criteria and the recommended control*

*measures as detailed in the acoustic report as follows:*

- i. Audio equipment is limited to a maximum volume of 75dBC measured 3m<sup>1</sup> from the main loudspeakers;*
  - ii. Live music can be hosted in the venue, however, the sound level must be below 75dBC. Drum kits or other instrument that produce sound levels that cannot conform to the limit, or cannot be automatically limited are not appropriate for the venue;*
  - iii. Installing noise monitors and limiters to maintain internal noise levels below 75dBC;*
  - iv. Educating patrons about the need to remain considerate of adjacent businesses and residences with respect to noise levels whilst on site through internal signage;*
  - v. Providing contact details to the Community for a Council representative who has the authority to take appropriate action to manage activities within the Centre.*
- b. Hours of operation as per the relevant condition of this consent*
- c. Hours of delivery as per the relevant condition of this consent*

The following condition relating to neighbourhood amenity is also recommended:

*~Neighbourhood Amenity*

*a. Signs must be placed in clearly visible positions within the premises requesting patrons upon leaving the premises to do so quickly and quietly, having regard to maintaining the amenity of the area.*

*b. The management must ensure that the behaviour of patrons entering and leaving the premises does not detrimentally affect the amenity of the neighbourhood. In this regard, the management must be responsible for the control of noise and litter generated by patrons of the premises and must ensure that patrons leave the vicinity of the premises in an orderly manner to the satisfaction of Council.*

The Plan of Management indicates that the function room will be available for use until 11pm on Saturdays, Sundays and Public Holidays, with the outdoor area available until 9pm. Concern is raised that people departing the site after 10pm may increase the risk of sleep disturbance impacts (e.g. patrons congregating on Waterfront Promenade, waiting for transport, starting cars, slamming car doors). This risk could be reduced by:

- Restricting the operating hours of the function room;
- Implementing a patron management plan;
- Provision of a Waterfront Centre contact number for residents to call to resolve noise issues;
- Installation of signage at all exits reminding patrons to be respectful of neighbours when departing the site; and
- Ensuring event organisers and bar staff practice responsible sales/service of alcohol (during licensed events).

Surrounding existing food and drink premises have operating hours till midnight Monday to Saturdays and 10pm Sundays. It is noted that the proposed use is not a food and drink premises but the community facility will be available for private hire for meetings/events. It is reasoned that an 11pm close is acceptable on Saturdays and 10pm on Sundays, this is in line with existing and future premises in the Town Centre. The outdoor space which will be

accessible from the largest function room is to be available for use until 9pm only. A condition detailing the hours of operation is recommended as follows:

*~Hours of Operation*

*The hours of operation are restricted to:*

- a. *Library:*  
*Wednesday to Friday 10am till 5pm*  
*Saturday and Sunday 10am till 3pm*
- b. *Visitor Information Centre:*  
*9am till 6pm 7 days a week*
- c. *Community Centre:*  
*Meeting Rooms available for bookings*  
*Monday – Friday 10am – 5pm.*  
*Saturday and Sunday 10am till 3pm*

*Function Room available for bookings*  
*Monday – Friday 9am till 5pm*  
*Saturday 9am till 11pm with outdoor area available till 9pm*  
*Sunday/Public Holidays – 10am till 10pm, no use of outdoor area after 9pm.*

- d. *Public Amenities - Open daily, to be locked after dark*

*Unless approved in writing by Shellharbour City Council.*

Resolution: The issue has been resolved through recommended conditions of consent as included above.

## 5.2 Flood Impact

The proposed community facilities, library and visitor centre is identified as per appendix 9 of the SDCP as ‘critical use’. The site is not impacted by the 1%AEP flood event, however the flood assessment provided with the application identifies that site is impacted by the PMF event. Initial plans showed that the entrance to the building was affected during a PMF event, this was not supported by Council and the issue was raised with the applicant via a Request for Additional Information letter.

The applicant provided amended plans and a site-specific Flood Report provided by Advisian Worley Group dated 13 September 2023, titled Shell Cove Boat Harbour Precinct: Precinct D Library & Community Centre – Flood Assessment. The amended plans included a flood deflection wall, highlighted within figure 12 and 13 below, to protect the development from the PMF flood. The flood deflection wall is included in design as to negate development controls as imposed within Table A9.3 - Schedule 1 of Council’s DCP for development within the Low-Risk Precinct.



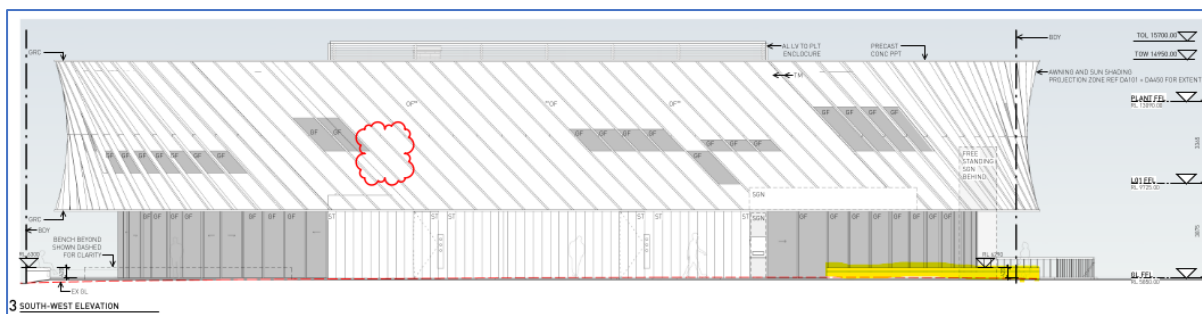


Figure 13– South west elevation plan showing flood deflection wall highlighted in yellow

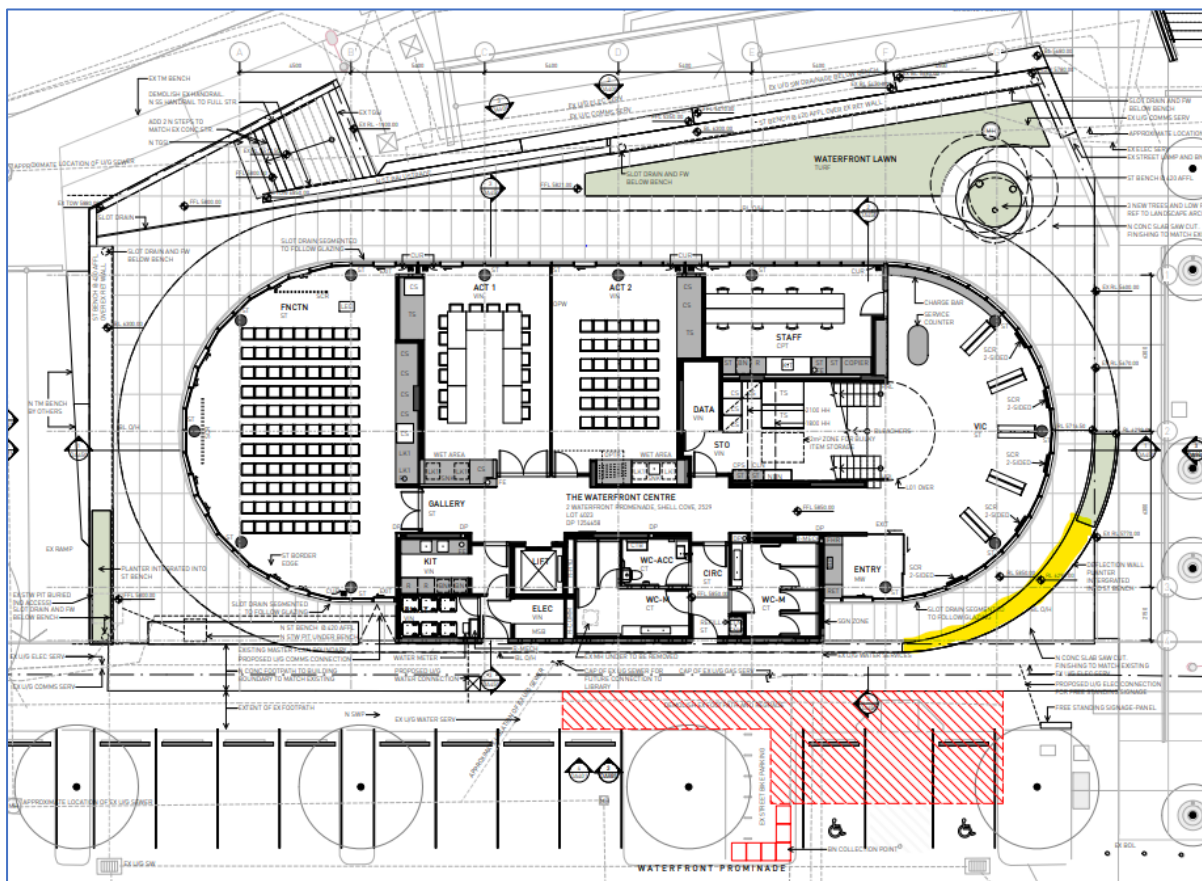


Figure 14 - Ground floor plan with flood deflection wall highlighted

As per the condition below, the flood deflection wall must be certified by hydraulic engineers for its suitability as intended by the provided flood report in protecting the building from PMF affection, inclusive of recommendation of flow velocity consideration and direction, and generally designed in accordance with the concept design.

Recommended condition as follows:

#### ~Flood Deflection Wall Design

Prior to the issue of a construction certificate a detailed structural design of the proposed flood wall on the Southern alignment of the site is to be provided to the Certifying Authority for approval.

The flood wall must also to be certified by hydraulic engineers for its suitability in deflecting flood water as intended in the document titled “Shell Cove Boat Harbour Precinct: Precinct D Library & Community Centre - Flood Assessment” by Advisian Worley Group dated 13th September 2023. The flood wall is to be generally designed in accordance with the concept



*design approved on plan project No. 1811, drawing DA100 REV D, DA400 REV D and DA401 REV E.*

The flood study and plans submitted with this application have been reviewed by Council's flooding team and advice provided as detailed below.

Schedule A9.10 of Council's DCP for public buildings requires a Flood Planning Level (FPL) to Probable Maximum Flood (PMF) level + freeboard. The proposal has been amended to include a flood deflection wall as to protect the structure from inundation during the PMF event (considered within a low flood risk precinct) therefore negating the requirement to increase the FPL.

The flood study submitted in support of the application notes within Section 2 that the PMF affection is approximately 6.2 m AHD at the western point and 5.8m AHD at the eastern point. It is recommended that the proposed flood deflection wall is built to withstand the forces of the PMF flow, including up to 1 m/s at the western end of the wall, orientated orthogonal to the flow. The report notes that the velocity will increase up to 2.6 m/s at the eastern end of the wall during the PMF event, however notes that flow will be parallel to the wall at this location.

There will be no loss of flood storage due to the development in the 1% Annual Exceedance Probability (AEP) event, the impacts on flooding elsewhere as filling at the site will be negligible.

The proposed structure has egress to upper floors that located above the PMF level therefore satisfying development controls. Flood assessment report states that

*there will be flood-free vehicle access along roads leading from the community centre to Harbour Boulevard during events up to and including the 100-year ARI event and a shelter-in-place strategy be implemented for visitors and staff to the building during extreme events greater than the 100-year ARI storm*

This is in accordance with Council's DCP and a suitable condition has been recommended requiring a flood emergency kit on site as below:

#### ***~Flood Emergency Kit***

*A Flood Emergency Kit should be prepared to the satisfaction of the Principle Certifying Authority prior to issue of the Occupation Certificate. The kit should be located at the upper floor level at or above the PMF level, and made conspicuous and easily accessible to occupants and visitors at all times. The Kit should include but not be limited to the following items as minimum:*

- a. A Flood Emergency Response letter, prepared by a practicing engineer with experience in Floodplain Risk Management, that details;*
  - i. local flood; levels, depths, duration, timing, extents, dwelling floor levels and their relationship to local flood levels*
  - ii. closest PMF refuge areas and safe evacuation routes (both internal and external to site)*
  - iii. dwelling floor levels and relationship to local flood levels*
  - iv. possibility of over floor flooding and expected depths*
  - v. possibility of local roads being closed due to flooding,*
  - vi. the need and capability for occupants to wade out or use a vehicle to escape rising flood water*
  - vii. access and egress availability for emergency services*

- viii. *consideration of local Emergency Plans and Council adopted Flood Study recommendations*
- b. *Emergency service contact information (SES, Police, Ambulance, Hospital etc.)*
- c. *Provision of emergency communications i.e. battery operated AM/FM radio and Two-way radios etc.*
- d. *Food, water, First Aid, medical supplies, batteries, chargers and other essential supplies for all visitors if a stay-in-place evacuation strategy is advised by the State Emergency Service (SES).*

Resolution: The issue has been resolved through inclusion of a flood deflection wall and recommended conditions of consent as included above.

## **6. Points Raised During Panel Briefing**

The following points were raised during the Panel briefing held on 12 September 2023 with Council comments below as follows:

### **6.1 The design and scale of the development**

Council comment: The scale of the development is within the parameters of the Concept Approval in terms of height and number of storeys. The facilities included within the building area of a suitable scale to serve the local community and visitors to the area.

The design of the development is unique to the Town Centre and reflects the maritime theme of the Marina.

### **6.2 Justification as to why the library is not located on the ground floor**

Council Comment:

- The site identified for the development as part of the Concept Approval is not large enough for a single storey building with all the facilities required on one floor.
- If the library were to be located on the ground floor it would have to be a significantly smaller in order to accommodate the public facilities, entrance etc.
- There is no requirement within the UDGs for the library to be on the ground floor.
- There is lift access to the first floor making both the library and the community centre accessible to all.
- The first floor library also enjoys outstanding water views which can be enjoyed by all visitors to the facility.
- As the community centre is to have longer opening hours than the library it is logical to have the proposed layout. The library can be locked securely whilst the community area is available for events and meetings after library hours, this would be more difficult to achieve were the layout reversed.

Utilising the first-floor space for the library is seen as a superior option due to the area available and various uses for the space.

### **6.3 Solar access to the library**

Council Comment:

The proposed library design includes windows on each elevation and five generous skylights.

The windows included in the elevations will be positioned between the slats on the outside of the building and will not be obscured by them allowing views and natural light into the space.

The windows differ in size ranging from 2.5 metres high in the main library area to 0.9 metres high windows serving the internal meeting rooms and staff rooms. The vertical windows and skylights proposed will allow suitable natural light into the library.

The submitted shadow diagrams indicate that the proposed building will receive direct sunlight between 9am and 11am mid winter (June 21<sup>st</sup>). After this time the 11 storey hotel building will overshadow the development. Solar diagrams have been included as attachment L of this report, figure 15 below details the noon shadow diagram with the shadow cast by the hotel building shown in blue. It is noted that the UDGs do not indicate a minimum solar access requirement for the proposed building.

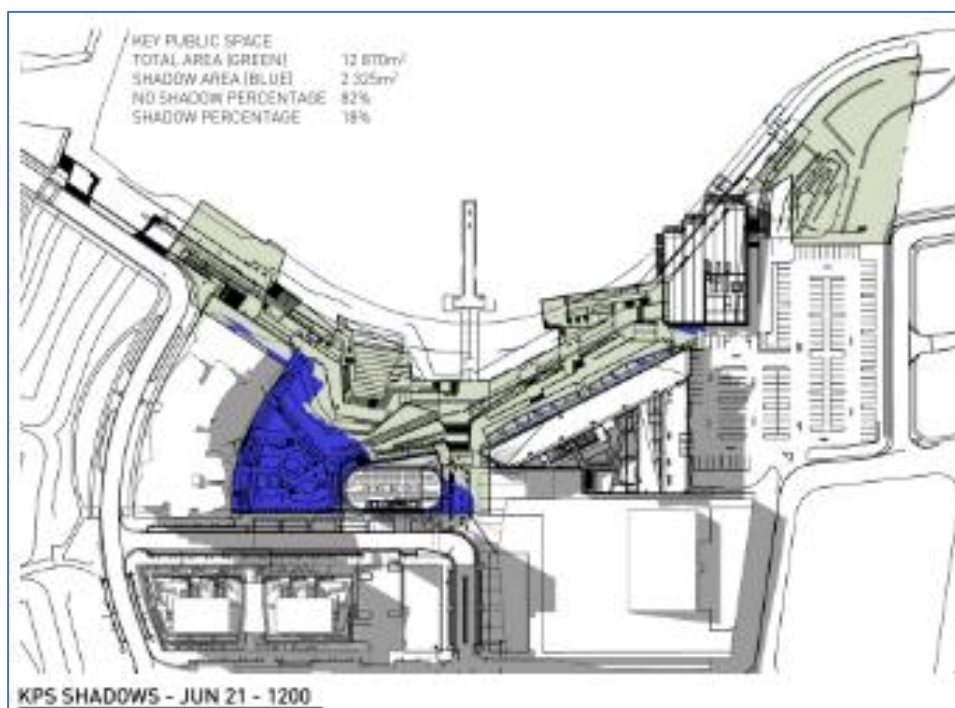


Figure 15 - Shadow diagram 12 noon June 21<sup>st</sup>.

The Concept Approval requires a minimum of three hours of solar access to 50% of the public open space areas. This has been achieved. Overshadowing analysis was undertaken as part of the assessment of the section 75W application (modification to the Concept Approval). This assessment considered the impact of the 11 storey hotel building in the modified location to the north of the town centre. Figure 16 is taken from the approved Shell Cove Boat Harbour Precinct Revised Concept Plan Design Report and details the overshadowing at 12 noon on June 21<sup>st</sup>. The shadow diagrams submitted as part of the proposed applications are consistent with the overshadowing analysis approved as part of the approved documents within the Concept Approval.

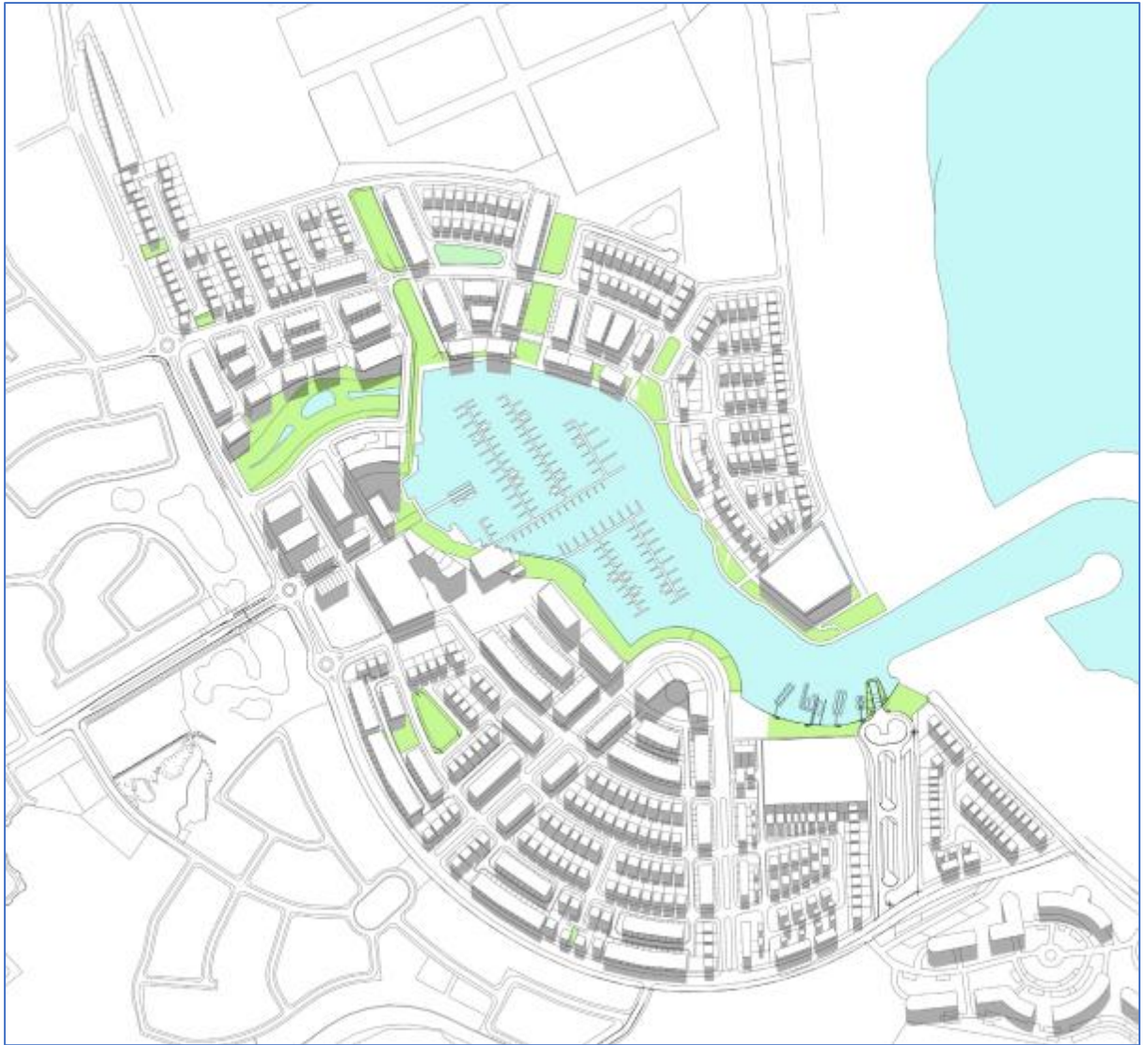


Figure 16 - Shell Cove Boat Harbour Precinct Revised Concept Plan Design Report solar diagram

#### **6.4 Hours of operation of the library and visitor centre and consistency with the Plan of Management**

Council Comment: Hours of operation proposed as follows:

##### Library

Wednesday – Friday 10am till 5pm  
Saturday and Sunday 10am till 3pm

##### Visitor Information Centre

Open 7 days per week 9am till 5pm including most public holidays

##### Community Facilities

Function room – available for bookings: Monday – Friday 9am till 5pm, Saturday, Sunday and Public holidays 9am till 11pm with outdoor area available till 9pm.

Meeting rooms – available for bookings: Monday – Friday 10am till 5pm, Saturday and Sunday 10am till 3pm and closed public holidays.

Public Amenities open 7 days from dawn till dusk, will be locked after dark.

Council is not supportive of an opening time till 11pm on Sunday, the surrounding Waterfront Tavern has a 10 pm closing time on Sundays and Public Holidays. The Acoustic Report does not provide any justification of why the function room within the Community Facility should be open an extra hour beyond the surrounding food and drink venues and therefore it is considered reasonable to condition that the opening hours are as follows:

*~Hours of Operation*

*The hours of operation are restricted to:*

*a. Library:*

*Wednesday to Friday 10am till 5pm*

*Saturday and Sunday 10am till 3pm*

*b. Visitor Information Centre:*

*9am till 6pm 7 days a week*

*c. Community Centre:*

*Meeting Rooms available for bookings*

*Monday – Friday 10am – 5pm.*

*Saturday and Sunday 10am till 3pm*

*Function Room available for bookings*

*Monday – Friday 9am till 5pm*

*Saturday 9am till 11pm with outdoor area available till 9pm*

*Sunday/Public Holidays – 10am till 10pm, no use of outdoor area after 9pm.*

*d. Public Amenities - Open daily, to be locked after dark*

*Unless approved in writing by Shellharbour City Council.*

**6.5 Access to toilet facilities on the library level**

Council comment: The first-floor library now includes an accessible toilet with baby change facilities. There is also a separate staff toilet on the first floor. The ground floor will include more public amenities.

Figure 17 and 18 below details the location of the public toilets on each floor.

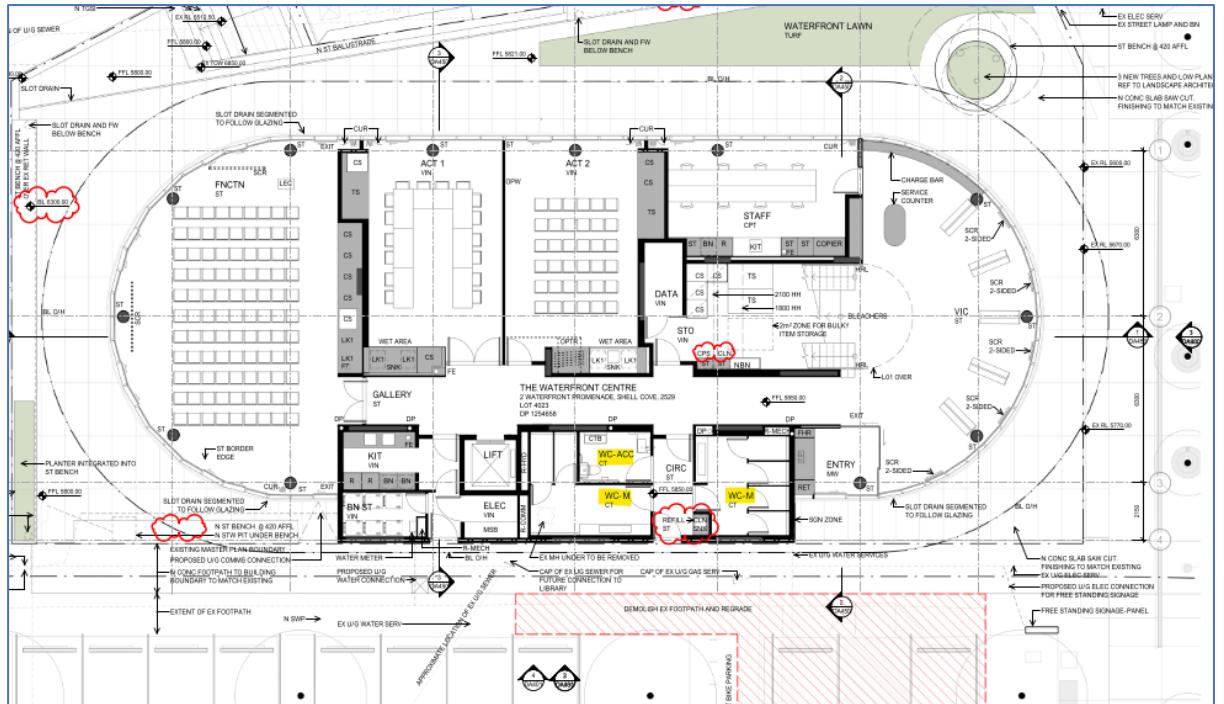


Figure 17 - Ground floor public amenities (highlighted)

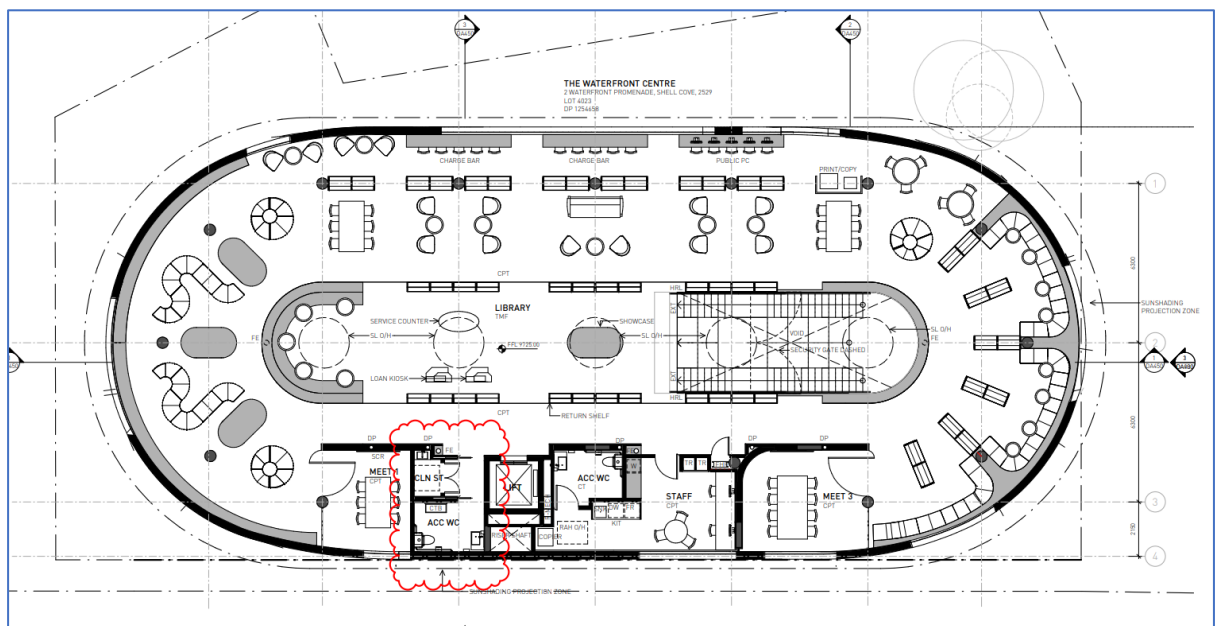


Figure 18 - First floor public amenities (clouded in red)

## 6.6 Clarification whether facilities were open dusk to dawn as stated in DA as opposed to dawn to dusk

Council comment: Public facilities are to be open from dawn till dusk (morning till evening). This has been confirmed by the applicant and the Plan of Management amended accordingly.

## 6.7 Impact of flooding at PMF on the overall design including the entry foyer, and whether there was flood free access.

Council comment: The entry foyer will not be impacted by flooding during a PMF event. A flood deflection wall (0.42 metre high wall) has been added to the proposal to direct waters away from the



entry foyer. Flooding was identified as a key issue in section 5 of this report and a detailed discussion is included in this section.

## 7. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, and the key issues identified in this report, it is considered that the application can be supported.

The proposed development will enhance the Shell Cove Town Centre for residents and visitors with community facilities and a library which will be accessible for all. The building has been designed to respect and enhance the coastal character of the area and the specific character of the Town Centre.

It is considered that the key issues as outlined in Section 6 have been resolved satisfactorily through amendments to the proposal and/or in the recommended draft conditions at attachment A.

## 8. RECOMMENDATION

That the Development Application PPSSTH – 257, DA 0272/2023 for the Shell Cove Waterfront Centre (Community Facilities, Information and education facility) at 2 Waterfront Promenade be approved pursuant to Section 4.16(1)(a) or (b) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent attached to this report at attachment A.

The following attachments are provided:

|               |  |
|---------------|--|
| Attachment A: | Draft Conditions of consent  |
| Attachment B: | Architectural Plans  |
| Attachment C: | Landscape Plans  |
| Attachment D: | Surrounding Existing Development   |
| Attachment E: | Surrounding Emerging Development   |
| Attachment F: | Background to planning framework for Shell Cove Boat Harbour and Marina Precincts. |
| Attachment G: | Concept Approval Compliance Table  |
| Attachment H  | Shellharbour Local Environmental Plan 2013 Compliance Table                        |
| Attachment I  | Shell Cove Precinct D Urban Design Guidelines Compliance Table                     |
| Attachment J  | Shellharbour Development Control Plan Compliance Table                             |
| Attachment K  | SEPP (Industry and Employment) 2021 Schedule 5 Compliance Table                    |
| Attachment L  | Solar Diagrams   |