

Attachment G: Shellharbour Local Environmental Plan 2013 Assessment Table

Part 2 Permitted or prohibited development	Original Comments	Modification Comments
Development characterisation	<p>Residential Flat Buildings and shop top housing – residential accommodation (umbrella term) Definition from SLEP 2013</p> <p>Residential accommodation means a building or place used predominantly as a place of residence, and includes any of the following—</p> <ul style="list-style-type: none"> (a) attached dwellings, (b) boarding houses, (c) dual occupancies, (d) dwelling houses, (e) group homes, (f) hostels, (g) multi dwelling housing, (h) residential flat buildings, (i) rural workers' dwellings, (j) secondary dwellings, (k) semi-detached dwellings, (l) seniors housing, (m) shop top housing, but does not include tourist and visitor accommodation or caravan parks. <p>shop top housing means one or more dwellings located above the ground floor of a building, where at least the ground floor is used for commercial premises or health services facilities.</p> <p>Note— Shop top housing is a type of residential accommodation—see the definition of that term in this Dictionary.</p>	<p>The development characterisation remains as per the existing characterisation.</p> <p>Building B is a Residential Flat Building, captured within the Umbrella term for shop-top housing.</p>

Land Use Zone	E1 – Local Centre	
Zone Objectives	<ul style="list-style-type: none"> •To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area. •To encourage investment in local commercial development that generates employment opportunities and economic growth. •To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area. •To encourage business, retail, community and other non-residential land uses on the ground floor of buildings. 	
Is proposal permissible in zone?	<p>Residential Accommodation is prohibited within the zone.</p> <p>Shop top housing is permitted with consent within the zone.</p> <p>Pursuant to Schedule 2 clause 3B of the Environmental Planning and Assessment Act (Savings, Transitional and Other Provisions) Regulation 2017 environmental planning instruments will apply but only to the extent that they are consistent with the approved Concept Plan. With regard to the proposed development classification, height and FSR the Concept Approval prevails.</p> <p>The proposed residential flat building meets the identified accommodation typology within the Concept Approval. The proposal will not exceed the indicative building height of the modified concept plan, or the number of storeys detailed in the Concept Approval. An assessment of compliance with the Concept Plan is provided at Attachment 6.</p>	<p>The proposal remains as per existing. Residential accommodation is prohibited in the zone, thus the RFB Building B is prohibited, however the Shell Cove Concept Approval takes precedence as per original assessment.</p>

Is the proposal consistent with zone objectives?	<p>Under clause 2.3(2) of SLEP 2013, the consent authority must have regard to the objectives for development in the zone.</p> <p>The proposed development will not undermine the objectives of the land use zone as it enables residential development and encourages business, retail use on the ground floor of building C. For Building A and B the requirements of the Concept Approval prevail as discussed in clause 4.6 below.</p>	As per original assessment. The modifications retain the same land-use and design, and will not undermine the objectives for development in the zone.
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Principal development standards (Part 4)			
Development Standards applicable to the development and/or site			
Part 4	Development Standards	How does the development comply (where applicable) – Original Comments	Modification Comments
Clause 4.2	Minimum Lot Size - 600 sqm.	Not applicable.	Not applicable.
Clause 4.3	Height of buildings - Height of Buildings Map Maximum height 15 metres.	<p>Maximum height of building 22 metres. This is higher than the SLEP 2013 18 metres limit for this zone.</p> <p>Refer to comment regarding clause 4.6 in this table.</p>	A maximum building height of 22 metres to the site through the Shell Cove Concept Approval. This takes precedence over the 18m height limit in the SLEP 2013, as per the transitional provisions.
Clause 4.4	Floor space ratio - Floor Space Ratio Map Development standard 1.5:1	<p>Site area – 8,262sqm</p> <p>Total GFA – 1, 8067sqm</p> <p>FSR – 2.1:1</p> <p>Does not comply, refer to comment regarding clause 4.6 in this table.</p>	<p>Site area – 8,262sqm</p> <p>Original GFA = 18,067sqm</p> <p>Original FSR = 2.1:1</p> <p>New GFA = 19,384sqm</p>

			<p>FSR = 2.34:1</p> <p>While this is non-compliant, Schedule 2 Clause 3B of the EP&A Act (Savings, Transitional and Other Provisions) Regulation 2017 applies, stating that the any inconsistencies between EPIs and the Concept Approval will be overruled by the concept approval. In this case, the concept approval takes precedent.</p> <p>Calculations for Building B:</p> <p>Basement 02 GFA = 20m²</p> <p>Basement 01 GFA = 20m²</p> <p>Ground Floor GFA = 1,168m²</p> <p>Level 01 GFA = 1,418m²</p> <p>Level 02 GFA = 1,418m²</p> <p>Level 03 GFA = 1,418m²</p> <p>Level 04 GFA = 1,418m²</p> <p>Level 05 GFA = 1,418m²</p> <p>Level 06 GFA = 302m²</p> <p>Building B total = 8,600m²</p> <p>Existing GFA:</p> <p>Building A total = 9,163m²</p> <p>Building C total = 1,621m²</p>
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Clause 4.6	Development exceed development standards	N/A	<p>N/A – while there are numerous non-compliances with Clause 4.6, the following applies:</p> <p>The <i>Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017</i> Schedule 2, section 3B, clause (2)(f) provides that the provisions of any EPI or any DCP do not have effect to the extent to which they are inconsistent with the terms of approval of the concept plan. Thus, the concept approval prevails over the SLEP 2013, and the discrepancies against the SLEP are considered permissible without need for a 4.6 variation.</p>

Miscellaneous provisions (Part 5)			
Part 5	Local provisions applicable to the development and/or site	How does the development comply (where applicable) – Original Comments	Modification Comments
Clause 5.10	Heritage	<p>The site is not identified as having any heritage sites within close proximity.</p> <p>Aboriginal heritage significance was investigated as part of the Concept Approval application and the archaeological sensitivity of the area was considered low. The proposal is not likely then to undermine the heritage conservation objectives of this clause.</p>	As per original assessment. Suitable conditions are retained with regard to Aboriginal Heritage and unexpected finds.
Clause 5.21	Flood Planning	The application has been referred to Council's Flood Engineer and no objections have been raised. Relevant conditions recommended as part of Attachment 1.	The proposed modification is considered to remain satisfactory with regard to flood planning.

Additional local provisions (Part 6)			
Part 6	Local provisions applicable to the development and/or site	How does the development comply (where applicable) - Original Comments	Modification Comments

Clause 6.1	Acid Sulfate Soils (ASS)	<p>Council mapping systems do not identify the subject lot as including Acid Sulfate Soils. The site specific report received and reviewed as part of this application concluded that Acid Sulfate Soils were unlikely to be found on the subject site.</p> <p>An Acid Sulfate Soils Management Plan was submitted in the event that they were discovered, due to the level of excavation proposed and has been reviewed by the relevant technical officers.</p> <p>A suitable condition has been recommended as part of attachment 1 regarding compliance with the submitted Acid Sulfate Soils Management Plan and strictly followed throughout construction (excavation) as necessary.</p>	<p>As per original assessment. The site is not mapped as including Acid Sulfate Soils. The proposed modifications include some changes to the earthworks, however these have been considered suitable. The modification is accompanied by an Acid Sulfate Soils Management Plan which provides management options in the event that acid sulfate soils are discovered. The requirements of this plan will be conditioned accordingly.</p>
Clause 6.2	Earthworks	<p>As part of the construction process for the development, excavation for the basement is anticipated to generate approximately 40135m3 of cut.</p> <p>The excavated material is proposed to be tested on site for contamination and stockpiled on site for reuse as fill if necessary. Reuse/recycling of VENM and ENM for material not used on site. Landfill if contaminated.</p> <p>Suitable condition applied as included in Attachment 1 .</p>	<p>The modifications increase the amount of cut from 40135m3 to 42508m3, representing an increase of 6% cut.</p> <p>The existing geotechnical report is considered to suitably apply to the modified earthworks. As per the original assessment, the excavated material will be tested on site for contamination, and stockpiled for reuse as fill if necessary. Conditions for earthworks are to be retained as per the original assessment. This has been conferred by Councils Engineering Officer.</p>

Clause 6.4	Stormwater management	The proposal will not compromise the objective of the clause. Council is satisfied, where relevant, that the matters listed in sub-clause 3 are suitably addressed.	As per original assessment.
Clause 6.5	Terrestrial Biodiversity	Dealt with as part of the Concept Approval. .	As per original assessment.
Clause 6.7	Airspace operations	The development will not penetrate the Obstacle Limitation Surface.	As per original assessment.
Clause 6.8	Development in areas subject to aircraft noise	Not applicable to this site	Not applicable to this site.
Clause 6.9	Essential services	Council is satisfied that the proposed development will have access to essential services as detailed in the assessment for the original subdivisions DA0143/2016 and DA0496/2018 and the submitted Utility Infrastructure Report authored by Arcadis dated 10.03.2016.	Council is satisfied that the development will have adequate access to essential services to supply water, electricity, sewage management, stormwater, and vehicular access.