



DETERMINATION AND STATEMENT OF REASONS
SOUTHERN REGIONAL PLANNING PANEL

DATE OF DETERMINATION	20 December 2024
DATE OF PANEL DECISION	20 December 2024
DATE OF PANEL BRIEFING	13 December 2024
PANEL MEMBERS	Chris Wilson (Chair), Juliet Grant, Grant Christmas, Graham Rollinson
APOLOGIES	None
DECLARATIONS OF INTEREST	Council interest DA The Panel Chair confirmed that Clr Chris Homer, Cr Kellie Marsh and Clr Maree Duffy-Moon were conflicted given it is a Council interest DA

Papers circulated electronically on 29 November 2024.

MATTER DETERMINED

PPSSTH-402 – SHELLHARBOUR - DAM0043/2024 at 6 Civic Avenue, SHELL COVE NSW 2529 (Lot 4006 DP 1219051, Lot 4204 DP 1254978, Lot 4205 DP 1254978) – Modification to DA0350/2022 (Two residential flat buildings and one mixed use building comprising 155 apartments and 360sqm of retail space) – Modification to increase the number of apartments from 155 to 178, relocation of Building B basement driveway, reconfiguration of building B basement, increase of communal space, modification to facade (as described in Schedule 1).

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings listed at item 8 in Schedule 1.

Application for modification of consent

The Panel determined to approve the development application pursuant to section 4.55 (2) of the *Environmental Planning and Assessment Act 1979* (the **Act**).

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to approve the application. In coming to its decision, the Panel was satisfied that the development as proposed to be modified was substantially the same development for which development consent (to DA0350/2022) was originally granted.

The Panel has taken into consideration the matters referred to in section 4.15 (1) of the Act that are of relevance to the development, including, to the extent that they are not inconsistent with the concept plan approval (MP 07_0027, as modified), the provisions of applicable environmental planning instruments (such as State environmental planning policies) and development control plan.

In particular, the Panel is of the view that the development as modified:

- will not result in any unacceptable impacts on the environment, internal amenity of the modified proposal, or the amenity of surrounding land uses, and
- having regard to the increased housing density and economic activity close to the Shellharbour town centre that will result from the development as modified, is in the public interest.

The application to modify the development consent was appropriately notified and submissions considered.

Further, the Panel has considered the reasons for the grant of the development consent that is sought to be modified, as required by section 4.55(3) of the Act, and is of the view that the modification of the development consent will not affect the continuing applicability of those reasons.

CONDITIONS

The application to modify the development consent was approved subject to the conditions circulated to the panel on 12 December 2024 titled *Attachment A2 – New Recommended Conditions of Consent (completed)* with the following amendment.

- Condition 4 was amended to ensure the modified approval is applicable as follows:

Condition 4. Easements





Modified in DA0350/2022 (Part 2) DAM0043/2024

Structures must not encroach onto any easement except where approved as part of this application.

The final Instrument of Consent approved by the panel can be found attached in Schedule 2.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel notes that no written submissions were made during public exhibition and therefore no issues of concern were raised.

PANEL MEMBERS	
 Christopher Wilson (Chair)	 Juliet Grant
 Grant Christmas	 Graham Rollinson

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSTH-402 – SHELLHARBOUR - DAM0043/2024
2	PROPOSED DEVELOPMENT	Modification to DA0350/2022 (Two residential flat buildings and one mixed use building comprising 155 apartments and 360sqm of retail space) – Modification to increase the number of apartments from 155 to 178, relocation of Building B basement driveway, reconfiguration of building B basement, increase of communal space, modification to facade.
3	STREET ADDRESS	6 Civic Avenue, SHELL COVE NSW 2529 (Lot 4006 DP 1219051, Lot 4204 DP 1254978, Lot 4205 DP 1254978)
4	APPLICANT/OWNER	Australand Corporation (NSW) Pty Ltd / Shellharbour City Council
5	TYPE OF REGIONAL DEVELOPMENT	Section 4.55(2) Modification Application
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Housing) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 Shell Cove Boat Harbour Concept Plan 07_0027 Mod 1 Shellharbour Local Environmental Plan 2013 Draft environmental planning instruments: Nil Development control plans: Nil Planning agreements: Nil Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>. Relevant provisions of the <i>Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017</i>. Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council Assessment Report: 29 November 2024 Written submissions during public exhibition: 0 Total number of unique submissions received by way of objection: 0
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 19 June 2024 <ul style="list-style-type: none"> <u>Panel members</u>: Chris Wilson (Chair), Juliet Grant, Grant Christmas <u>Council assessment staff</u>: Jacob Lia, Madeline Cartwright, Matt Rawson <u>Applicant representatives</u>: Ben Sutton (Frasers Property), Alby Peros (Frasers Property), Peter Valeontis (Frasers Property), Rido Pin (Plus Architecture), Mahtab Bahrami (Plus Architecture), Jim Murray (Ethos Urban), Juliet Wittenoom Louw (Ethos Urban) <u>DPHI</u>: Amanda Moylan, Tracey Gillett Final briefing to discuss council's recommendation: 13 December 2024 <ul style="list-style-type: none"> <u>Panel members</u>: Chris Wilson (Chair), Juliet Grant, Grant Christmas, Graham Rollinson

		<ul style="list-style-type: none">○ <u>Council assessment staff</u>: Jacob Lia, Madeline Cartwright, Matt Rawson○ <u>Applicant representatives</u>: Ben Sutton (Frasers Property), Peter Valeontis (Frasers Property), Rido Pin (Plus Architecture), Mahtab Bahrami (Plus Architecture), Jim Murray (Ethos Urban)○ <u>DPHI</u>: Amanda Moylan
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report

SCHEDULE 2 – Approved Conditions of Consent

1. Construction Certificate & PC Notification

Before any site works, building or use is commenced, the person having the benefit of the development consent must:

- a. obtain a Construction Certificate from Shellharbour City Council or other accredited certifier, and
- b. appoint a Principal Certifier.

2. Prescribed Conditions

This development consent is subject to the prescribed conditions made under the *Environmental Planning & Assessment Regulation 2021*.

3. Development in Accordance with Plans and Documents Modified under DA0350/2022 (Part 2) DAM0043/2024

The development must be in accordance with the following approved Development Application plans and documents as endorsed by Council's stamp. Where there is an inconsistency between the approved plans/documentation and conditions of consent, the conditions of consent take precedence to the extent of the inconsistency.

Name of Plan/Document	Prepared By	Drawing/Document No./Revision	Drawing/Document Date
Site Plan <i>Modified under DA0350/2022 (Part 2) DAM0043/2024</i>	Plus Architecture	DA-0010 rev. 07	11.11.2024

Floor Plans <i>Modified under DA0350/2022 (Part 2) DAM0043/2024</i>	Plus Architecture	DA-0098 rev. 17 DA-0099 rev. 17 DA-0100 rev. 17 DA-0101 rev. 17 DA-0102 rev. 17 DA-0103 rev. 17 DA-0104 rev. 17 DA-0105 rev. 17 DA-0106 rev. 17 DA-0107 rev. 05 DA-A-0099 rev. 12 DA-A-0100 rev. 12 DA-A-0101 rev. 12 DA-A-0102 rev. 12 DA-A-0103 rev. 12 DA-A-0104 rev. 12 DA-A-0105 rev. 12 DA-A-0106 rev. 12 DA-A-0107 rev. 01 DA-B-0098 rev. 20 DA-B-0099 rev. 20 DA-B-0100 rev. 20 DA-B-0101 rev. 20 DA-B-0102 rev. 20 DA-B-0103 rev. 20 DA-B-0104 rev. 20 DA-B-0105 rev. 20 DA-B-0106 rev. 20 DA-B-0107 rev. 06	11.11.2024 11.11.2024 11.11.2024 11.11.2024 11.11.2024 11.11.2024 11.11.2024 11.11.2024 11.11.2024 11.11.2024 23.05.2022 23.05.2022 23.05.2022 23.05.2022 23.05.2022 23.05.2022 23.05.2022 23.05.2022 11.11.2024 11.11.2024 11.11.2024 11.11.2024 11.11.2024 11.11.2024 11.11.2024 11.11.2024 11.11.2024 11.11.2024
Section Plans <i>Modified under DA0350/2022 (Part 2) DAM0043/2024</i>	Plus Architecture	DA-0200 rev. 11 DA-0201 rev. 11 DA-0202 rev. 09 DA-0203 rev. 04	11.11.2024 11.11.2024 11.11.2024 11.11.2024
Elevations Plan <i>Modified under DA0350/2022 (Part 2) DAM0043/2024</i>	Plus Architecture	DA-0210 rev. 10 DA-0211 rev. 10 DA-0212 rev. 10 DA-0213 rev. 10	11.11.2024 11.11.2024 11.11.2024 11.11.2024
BASIX* <i>Modified under DA0350/2022 (Part 2) DAM0043/2024</i>	Northrop Consulting Engineers Pty Ltd	Certificate No. 1291581M_10	29.11.2024
Waste Management Plan	MRA	222-1012495 version 1	14.06.2022
Shell Cove Precinct D – Building B: Waste Management Plan	MRA	222-1012495 version 1	27.03.2024

<i>Added under DA0350/2022 (Part 2) DAM0043/2024</i>			
Civil Plans <i>Modified under DA0350/2022 (Part 2) DAM0043/2024</i>	Northrop	DA1.01 rev. 6 DA1.11 rev. 5 DA1.12 rev. 5 DA2.01 rev. 6 DA2.11 rev. 5 DA3.01 rev. 5 DA4.01 rev. 1 DA5.01 rev. 2 DA5.02 rev. 2 DA5.03 rev. 6 DA5.04 rev. 2 DA5.05 rev. 2 DA6.01 rev. 5	22.03.2024 22.03.2024 22.03.2024 22.03.2024 22.03.2024 22.03.2024 25.05.2022 22.03.2024 22.03.2024 22.03.2024 11.04.2024 22.03.2024 22.03.2024
Landscape Plan <i>Modified under DA0350/2022 (Part 2) DAM0043/2024</i>	Group GSA	No rooftop pool L-PD-000B issue G L-PD-2000A issue H L-PD-2000 issue J L-PD-2001 issue H L-PD-2002 issue J L-PD-2003 issue G L-PD-2004 issue B L-PD-2006 issue E L-PD-2007 issue E L-PD-2007A issue B L-PD-2008 issue E L-PD-2009 issue G L-PD-3001 issue B L-PD-3002 issue E L-PD-4000 issue A L-PD-5000 issue A L-PD-5001 issue A With rooftop pools L-PD-000B issue F L-PD-2000A issue H L-PD-2000 issue I L-PD-2001 issue H L-PD-2002 issue H L-PD-2003 issue G L-PD-2004 issue B L-PD-2006 issue E L-PD-2006A issue B L- PD-2007 issue E L-PD-2007A issue B L-PD-2008 issue E L-PD-2009 issue D L-PD-3001 issue B L-PD-3002 issue C L-PD-4000 issue D L-PD-5000 issue A L-PD-5001 issue A	08.03.2024 22.03.2024 22.03.2024 26.05.2022 22.03.2024 26.05.2022 26.05.2022 26.05.2022 26.05.2022 26.05.2022 22.03.2024 26.05.2022 22.03.2024 26.05.2022 26.05.2022 26.05.2022 20.04.2022 22.03.2024 20.04.2022 20.04.2022 20.04.2022 20.04.2022 20.04.2022 20.04.2022 20.04.2022 20.04.2022 20.04.2022 20.04.2022 20.04.2022 20.04.2022 22.03.2024 20.04.2022 20.04.2022

Colour/Material Schedule <i>Added under DA0350/2022 (Part 2) DAM0043/2024</i>	Plus Architecture	DA-0700 revision 03 DA-0701 revision 03	23.05.2022 29.11.2024
Utilities Report	Arcadia	Revision C	10.03.2016
Utilities Statement <i>Added under DA0350/2022 (Part 2) DAM0043/2024</i>	Arcadis	No revision details	31.07.2024
Pedestrian Wind Environment Statement <i>Modified under DA0350/2022 (Part 2) DAM0043/2024</i>	Windtech	WG154-02Df01(REV7)- WS REPORT	10.04.2024
Acid Sulphate <i>Modified under DA0350/2022 (Part 2) DAM0043/2024</i>	SMEC	3001886 rev. 3	12.04.2024
Access Review	Morris Goding Access Consulting	DA Final	27.05.2022
Access Review – S4.55 <i>Added under DA0350/2022 (Part 2) DAM0043/2024</i>	Morris Goding Access Consulting	Job Number 00709 – Final	09.04.2024
Statement of Environmental Effects	Ethos Urban	2210151	06.07.2022
Section 4.55(2) Modification Report <i>Added under DA0350/2022 (Part 2) DAM0043/2024</i>	Ethos Urban	221051	12.04.2024
Traffic Assessment	Ason Group	1684r01v6 TA Precinct D, Shell Cove Issue VI	29.06.2022
Traffic Statement – S4.55(2) <i>Added under DA0350/2022 (Part 2) DAM0043/2024</i>	Ason Group	P1684v4_S4.55_TS Precinct D, Shell Cove	21.10.2024
Acoustic Assessment	Acoustic Logic	20211024.1 revision 3	16.12.2022
Acoustic Assessment Building B – S4.55 Application	Acoustic Logic	20211024.6 revision 2	09.04.2024

<i>Added under DA0350/2022 (Part 2) DAM0043/2024</i>			
CPTED Report	Ethos Urban	2210151	06.07.2022
CPTED Statement <i>Added under DA0350/2022 (Part 2) DAM0043/2024</i>	Ethos Urban	2210151	12.04.2024
Preliminary Geotechnical Investigation Report	SMEC	3001886-R06 revision 2	10.05.2022
Preliminary Geotechnical Investigation Statement – S4.55 <i>Added under DA0350/2022 (Part 2) DAM0043/2024</i>	SMEC	3001886-L29-Rev 1	15.03.2024
Landscape – Parking Aquatic Drive	Group GSA	L-PD-SK1 – Issue A	02.10.2024

* The approved BASIX Certificate may only be updated, without the need to lodge a modification to the development consent, where any change to the BASIX Commitments does not result in the proposal being inconsistent with this development consent and/or alter the approved development application plans.

4. Easements

Modified in DA0350/2022 (Part 2) DAM0043/2024

Structures must not encroach onto any easement except where approved as part of this application.

5. Endeavour Energy

Modified in DA0350/2022 (Part 2) DAM0043/2024

Correspondence has been received from Endeavour Energy dated 22.08.2022 and 05.05.2024, and is attached to this consent at Part H.

In addressing this correspondence, each condition marked with a checked box applies to the development. Further information on each applicable clause is provided within Endeavour Energy's document 'Standard Conditions for Development Applications and Planning Proposals Version 7 dated December 2022'. This document can be found on the Planning Portal under 'Agency Advice'.

6. Compliance with Notations on Drawings

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

7. Staged Consent

Modified under DA0350/2022 (Part 2) DAM0043/2024

The development is able to be staged as follows:

Stage 1: Construction of Building B and upgrades to car park and Aquatic Drive on-street car parking spaces.

Stage 2: Construction of Building A and Building C and car park.

Nothing in this consent prevents either stage from occurring first.

All conditions of the consent apply to each stage, unless otherwise specified.

8. House Numbering

Modified under DA0350/2022 (Part 2) DAM0043/2024

House numbering will be as follows:

Building A Primary Address - 5 Civic Avenue

Building B Primary Address – 9 Waterfront Promenade

Building C Primary Address - 95 Cove Boulevard

Building A – 5 Civic Avenue				
Ground Floor	Street Number	Street Name	Street Type	Locality
A001	G01/5	Civic	Avenue	Shell Cove
A002	G02/5	Civic	Avenue	Shell Cove
A003	G03/5	Civic	Avenue	Shell Cove
A004	G04/5	Civic	Avenue	Shell Cove
A005	G05/5	Civic	Avenue	Shell Cove
A006	G06/5	Civic	Avenue	Shell Cove
A007	G07/5	Civic	Avenue	Shell Cove
A008	G08/5	Civic	Avenue	Shell Cove
A009	G09/5	Civic	Avenue	Shell Cove
A010	G10/5	Civic	Avenue	Shell Cove
Level 1	Street Number	Street Name	Street Type	Locality
A101	101/5	Civic	Avenue	Shell Cove

A102	102/5	Civic	Avenue	Shell Cove
A103	103/5	Civic	Avenue	Shell Cove
A104	104/5	Civic	Avenue	Shell Cove
A105	105/5	Civic	Avenue	Shell Cove
A106	106/5	Civic	Avenue	Shell Cove
A107	107/5	Civic	Avenue	Shell Cove
A108	108/5	Civic	Avenue	Shell Cove
A109	109/5	Civic	Avenue	Shell Cove
A110	110/5	Civic	Avenue	Shell Cove
A111	111/5	Civic	Avenue	Shell Cove
Level 2	Street Number	Street Name	Street Type	Locality
A201	201/5	Civic	Avenue	Shell Cove
A202	202/5	Civic	Avenue	Shell Cove
A203	203/5	Civic	Avenue	Shell Cove
A204	204/5	Civic	Avenue	Shell Cove
A205	205/5	Civic	Avenue	Shell Cove
A206	206/5	Civic	Avenue	Shell Cove
A207	207/5	Civic	Avenue	Shell Cove
A208	208/5	Civic	Avenue	Shell Cove
A209	209/5	Civic	Avenue	Shell Cove
A210	210/5	Civic	Avenue	Shell Cove
A211	211/5	Civic	Avenue	Shell Cove
A212	212/5	Civic	Avenue	Shell Cove
A213	213/5	Civic	Avenue	Shell Cove
A214	214/5	Civic	Avenue	Shell Cove
Level 3	Street Number	Street Name	Street Type	Locality
A301	301/5	Civic	Avenue	Shell Cove

A302	302/5	Civic	Avenue	Shell Cove
A303	303/5	Civic	Avenue	Shell Cove
A304	304/5	Civic	Avenue	Shell Cove
A305	305/5	Civic	Avenue	Shell Cove
A306	306/5	Civic	Avenue	Shell Cove
A307	307/5	Civic	Avenue	Shell Cove
A308	308/5	Civic	Avenue	Shell Cove
A309	309/5	Civic	Avenue	Shell Cove
A310	310/5	Civic	Avenue	Shell Cove
A311	311/5	Civic	Avenue	Shell Cove
A312	312/5	Civic	Avenue	Shell Cove
A313	313/5	Civic	Avenue	Shell Cove
A314	314/5	Civic	Avenue	Shell Cove
Level 4	Street Number	Street Name	Street Type	Locality
A401	401/5	Civic	Avenue	Shell Cove
A402	402/5	Civic	Avenue	Shell Cove
A403	403/5	Civic	Avenue	Shell Cove
A404	404/5	Civic	Avenue	Shell Cove
A405	405/5	Civic	Avenue	Shell Cove
A406	406/5	Civic	Avenue	Shell Cove
A407	407/5	Civic	Avenue	Shell Cove
A408	408/5	Civic	Avenue	Shell Cove
A409	409/5	Civic	Avenue	Shell Cove
A410	410/5	Civic	Avenue	Shell Cove
A411	411/5	Civic	Avenue	Shell Cove
A412	412/5	Civic	Avenue	Shell Cove
A413	413/5	Civic	Avenue	Shell Cove

A414	414/5	Civic	Avenue	Shell Cove
Level 5	Street Number	Street Name	Street Type	Locality
A501	501/5	Civic	Avenue	Shell Cove
A502	502/5	Civic	Avenue	Shell Cove
A503	503/5	Civic	Avenue	Shell Cove
A504	504/5	Civic	Avenue	Shell Cove
A505	505/5	Civic	Avenue	Shell Cove
A506	506/5	Civic	Avenue	Shell Cove
A507	507/5	Civic	Avenue	Shell Cove
A508	508/5	Civic	Avenue	Shell Cove
A509	509/5	Civic	Avenue	Shell Cove
A510	510/5	Civic	Avenue	Shell Cove
A511	511/5	Civic	Avenue	Shell Cove
A512	512/5	Civic	Avenue	Shell Cove
A513	513/5	Civic	Avenue	Shell Cove
A514	514/5	Civic	Avenue	Shell Cove

Building B – 9 Waterfront Promenade				
Ground Floor	Street Number	Street Name	Street Type	Locality
B001	G01/9	Waterfront	Promenade	Shell Cove
B002	G02/9	Waterfront	Promenade	Shell Cove
B003	G03/9	Waterfront	Promenade	Shell Cove
B004	G04/9	Waterfront	Promenade	Shell Cove
B005	G05/9	Waterfront	Promenade	Shell Cove
B006	G06/9	Waterfront	Promenade	Shell Cove
B007	G07/9	Waterfront	Promenade	Shell Cove
B008	G08/9	Waterfront	Promenade	Shell Cove
B009	G09/9	Waterfront	Promenade	Shell Cove

B010	G10/9	Waterfront	Promenade	Shell Cove
B011	G11/9	Waterfront	Promenade	Shell Cove
Level 1	Street Number	Street Name	Street Type	Locality
B101	101/9	Waterfront	Promenade	Shell Cove
B102	102/9	Waterfront	Promenade	Shell Cove
B103	103/9	Waterfront	Promenade	Shell Cove
B104	104/9	Waterfront	Promenade	Shell Cove
B105	105/9	Waterfront	Promenade	Shell Cove
B106	106/9	Waterfront	Promenade	Shell Cove
B107	107/9	Waterfront	Promenade	Shell Cove
B108	108/9	Waterfront	Promenade	Shell Cove
B109	109/9	Waterfront	Promenade	Shell Cove
B110	110/9	Waterfront	Promenade	Shell Cove
B111	111/9	Waterfront	Promenade	Shell Cove
B112	112/9	Waterfront	Promenade	Shell Cove
B113	113/9	Waterfront	Promenade	Shell Cove
B114	114/9	Waterfront	Promenade	Shell Cove
B115	115/9	Waterfront	Promenade	Shell Cove
Level 2	Street Number	Street Name	Street Type	Locality
B201	201/9	Waterfront	Promenade	Shell Cove
B202	202/9	Waterfront	Promenade	Shell Cove
B203	203/9	Waterfront	Promenade	Shell Cove
B204	204/9	Waterfront	Promenade	Shell Cove
B205	205/9	Waterfront	Promenade	Shell Cove
B206	206/9	Waterfront	Promenade	Shell Cove
B207	207/9	Waterfront	Promenade	Shell Cove
B208	208/9	Waterfront	Promenade	Shell Cove

B209	209/9	Waterfront	Promenade	Shell Cove
B210	210/9	Waterfront	Promenade	Shell Cove
B211	211/9	Waterfront	Promenade	Shell Cove
B212	212/9	Waterfront	Promenade	Shell Cove
B213	213/9	Waterfront	Promenade	Shell Cove
B214	214/9	Waterfront	Promenade	Shell Cove
B215	215/9	Waterfront	Promenade	Shell Cove
Level 3	Street Number	Street Name	Street Type	Locality
B301	301/9	Waterfront	Promenade	Shell Cove
B302	302/9	Waterfront	Promenade	Shell Cove
B303	303/9	Waterfront	Promenade	Shell Cove
B304	304/9	Waterfront	Promenade	Shell Cove
B305	305/9	Waterfront	Promenade	Shell Cove
B306	306/9	Waterfront	Promenade	Shell Cove
B307	307/9	Waterfront	Promenade	Shell Cove
B308	308/9	Waterfront	Promenade	Shell Cove
B309	309/9	Waterfront	Promenade	Shell Cove
B310	310/9	Waterfront	Promenade	Shell Cove
B311	311/9	Waterfront	Promenade	Shell Cove
B312	312/9	Waterfront	Promenade	Shell Cove
B313	313/9	Waterfront	Promenade	Shell Cove
B314	314/9	Waterfront	Promenade	Shell Cove
B315	315/9	Waterfront	Promenade	Shell Cove
Level 4	Street Number	Street Name	Street Type	Locality
B401	401/9	Waterfront	Promenade	Shell Cove
B402	402/9	Waterfront	Promenade	Shell Cove
B403	403/9	Waterfront	Promenade	Shell Cove

B404	404/9	Waterfront	Promenade	Shell Cove
B405	405/9	Waterfront	Promenade	Shell Cove
B406	406/9	Waterfront	Promenade	Shell Cove
B407	407/9	Waterfront	Promenade	Shell Cove
B408	408/9	Waterfront	Promenade	Shell Cove
B409	409/9	Waterfront	Promenade	Shell Cove
B410	410/9	Waterfront	Promenade	Shell Cove
B411	411/9	Waterfront	Promenade	Shell Cove
B412	412/9	Waterfront	Promenade	Shell Cove
B413	413/9	Waterfront	Promenade	Shell Cove
B414	414/9	Waterfront	Promenade	Shell Cove
B415	415/9	Waterfront	Promenade	Shell Cove
Level 5	Street Number	Street Name	Street Type	Locality
B501	501/9	Waterfront	Promenade	Shell Cove
B502	502/9	Waterfront	Promenade	Shell Cove
B503	503/9	Waterfront	Promenade	Shell Cove
B504	504/9	Waterfront	Promenade	Shell Cove
B505	505/9	Waterfront	Promenade	Shell Cove
B506	506/9	Waterfront	Promenade	Shell Cove
B507	507/9	Waterfront	Promenade	Shell Cove
B508	508/9	Waterfront	Promenade	Shell Cove
B509	509/9	Waterfront	Promenade	Shell Cove
B510	510/9	Waterfront	Promenade	Shell Cove
B511	511/9	Waterfront	Promenade	Shell Cove
B512	512/9	Waterfront	Promenade	Shell Cove
B513	513/9	Waterfront	Promenade	Shell Cove
B514	514/9	Waterfront	Promenade	Shell Cove

B515	515/9	Waterfront	Promenade	Shell Cove
Level 6	Street Number	Street Name	Street Type	Locality
B601	601/9	Waterfront	Promenade	Shell Cove
B602	602/9	Waterfront	Promenade	Shell Cove

Building C				
Ground Floor	Street Number	Street Name	Street Type	Locality
59m Retail	89	Cove	Boulevard	Shell Cove
90m Retail	91	Cove	Boulevard	Shell Cove
44m Retail	93	Cove	Boulevard	Shell Cove
52m Retail	97	Cove	Boulevard	Shell Cove
85m Retail	99	Cove	Boulevard	Shell Cove
First Floor	Street Number	Street Name	Street Type	Locality
C100	G01/95	Cove	Boulevard	Shell Cove
C101	101/95	Cove	Boulevard	Shell Cove
C102	102/95	Cove	Boulevard	Shell Cove
C103	103/95	Cove	Boulevard	Shell Cove
C104	104/95	Cove	Boulevard	Shell Cove
C105	105/95	Cove	Boulevard	Shell Cove
C106	106/95	Cove	Boulevard	Shell Cove
Level 2	Street Number	Street Name	Street Type	Locality
C201	201/95	Cove	Boulevard	Shell Cove
C202	202/95	Cove	Boulevard	Shell Cove
C203	203/95	Cove	Boulevard	Shell Cove
C204	204/95	Cove	Boulevard	Shell Cove
C205	205/95	Cove	Boulevard	Shell Cove
C206	206/95	Cove	Boulevard	Shell Cove

- a. The allocated house numbers must be shown on the Construction Certificate plans.
- b. Where plans and details are provided to service suppliers, numbers must be in accordance with the above.

PART B - PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

9. Section 7.11 Development Contributions Modified under DA0350/2022 (Part 2) DAM0043/2024

A contribution of 2,021,376.72, subject to annual indexation, must be paid to Council towards the provision of public amenities and public services prior to the issue of the relevant Construction Certificate as shown below.

Stage	Precinct 2, Shellharbour	Non Residential	Credit for C1.26 Passive Open Space	Total Section 94 Contribution
1	\$ 1,073,868.84	\$ 0	(\$ 75,007.05)	\$ 998,861.79
2	\$ 1,098,555.48	\$ 690.80	(\$ 76,731.35)	\$ 1,022,514.93
Total	\$ 2,172,426.08	\$ 690.80	(\$ 151,738.40)	\$ 2,021,376.72

This amount has been calculated in accordance with Shellharbour City Council's Local Infrastructure Contributions Plan 2019 9th Review (Amendment 1) 6 June 2022 in the following manner:

- Residential contribution - Precinct 2, Shellharbour - \$ 2,172,426.08
- Less credit for C1.26 Passive Open Space Embellishment - (\$151,738.40)
- Non-residential contribution - \$ 690.80

Open Space contribution	\$ 354,705.12
Community Infrastructure contribution	\$ 1,458,919.41
Roads & Traffic Infrastructure contribution	\$ 37,352.48
Drainage contribution	\$ 0.00
Administration contribution	\$ 170,399.71
Total contribution payable	\$ 2,021,376.72

The contribution amount contained in this condition is the base rate indexed to the date the consent for DA0350/2022 was issued. The contribution amount will be adjusted in accordance with the indexation methods detailed in the Contributions Plan. Current indexed rates are available from Council.

The Contributions Plan may be inspected or a copy purchased at the Customer Service

Counter at Council's offices, or downloaded from <http://www.shellharbour.nsw.gov.au>

10. Bond - Existing Street Trees

A Street Tree Bond deposit in accordance with Council's Fees and Charges (total 57 trees) must be lodged with Council prior to the issue of the Construction Certificate to ensure that in accordance with the Approved Landscape Plan, the eight (8) existing street trees that conflict with pram ramp locations are transplanted and/or replaced, and the forty nine (49) existing trees (with no conflict) are maintained in the same condition or better as found before the start of any building work on the site.

The street tree bond may be paid in staged instalments, with 32 trees surrounding Building B bonded in Stage 1, and 25 trees surrounding Buildings A and C bonded in Stage 2, prior to issue of the relevant Construction Certificate.

11. Street Tree Inspection Fee

The developer must lodge with Council an inspection fee in accordance with Council's Fees and Charges for:

- street tree inspection prior to occupation of the development
- street tree inspection following completion of the maintenance period prior to the issue of the Construction Certificate.

12. Protection of Street Trees

Any existing street trees must be enclosed with temporary protective fencing to prevent any activities, storage or the disposal of materials within the fenced area. Details of the design and location of the vegetation protective fencing must be shown on the building plans and must be approved by the accredited certifier prior to the issue of the Construction Certificate. The protective fence must:

- a. be located a minimum of 1.5m from the base of the tree
- b. have a minimum height of 1.5m
- c. be clearly marked at all times with the use of high visibility plastic hazard tape.

Any street tree that is damaged or removed during works must be replaced prior to return of the street tree bond.

13. Amended Plans

Modified under DA0350/2022 (Part 2) DAM0043/2024

Prior to the issue of a relevant Construction Certificate plans are to be submitted to, and approved by, Council which show the following:

- a. Details of the raised pedestrian crossing across Waterfront Parade (in particular height and gradient of height change) to ensure the raised aspect of the crossing will not conflict with vehicles exiting the approved hotel development's porte cochere.

- b. Landscaping within the open car parks, and Building B Communal Open Space is to consist of plant species with a mature height less than 500mm, or in the case of trees, with a minimum canopy height of 1.8m, to ensure compliance with CPTED principles.
- c. Details on window and balcony security measures (i.e. security latches), and entry point and car park access control (i.e. swipe cards or locks) must be provided on the suite of architectural plans to ensure compliance with CPTED principles.
- d. The suite of landscape plans must be amended to ensure consistency with the suite of architectural plans, specifically noting the provision of planter boxes on the structure of Building B, including on each floor's central section, on the Level 1 south-west corner, and on the rooftop Communal Open Space. The amendments must also capture amendments to the public domain landscaping near the Building B basement driveway entrance.

14. Detailed Drainage Design

Modified under DA0350/2022 (Part 2) DAM0043/2024

A detailed drainage design of the site must be submitted and approved by the Principal Certifier prior to the release of the relevant Construction Certificate. The detailed plan must:

- a. be generally in accordance with Siteworks and Stormwater Management Plans, comprising Sheets DA5.01 - D-5.05 under 'Civil Plans' in the stamped plans table, reference number 211046, prepared by Northrop., revision 2, ref no. 211046 prepared by Northrop on 22.03.2024,
- b. drain to Council pit,
- c. indicate the method of disposal of all stormwater and must include existing ground levels, finished surface levels on all paved areas, estimated flow rates, invert levels and size of all pipelines,
- d. be to satisfaction of the Certifying Authority,
- e. be designed to cater for a 1 in 20 year Average Recurrence Interval storm event,
- f. overflow drainage paths are to be provided and be designed to cater for a 1 in 100 year Average Recurrence Interval storm event,
- g. comply with Council's *Shellharbour Development Control Plan (Chapter 25 & Appendix 12)* unless variation is specifically noted and approved on DA concept drainage plan, and
- h. include the rainwater tank, dimensions and point of discharge of overflow from the rainwater tank and details of any pump required to provide water to the toilets, clothes washer and/or any other fixture identified in the BASIX certificate.

Item h is only relevant to the Stage 2 Construction Certificate (Buildings A and C).

15. Amended Geotechnical Report

An amended geotechnical report, prepared by a suitably qualified and experienced geotechnical engineer must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The report must cover, but not be limited to the following:

- a. extent and stability of proposed embankments including those acting as retarding basins,
- b. recommended Geotechnical testing requirements,

- c. level of geotechnical supervision for each part of the works as defined under AS 3798 - 2007 Guidelines on Earthworks for Commercial and Residential Developments or subsequent amendments,
- d. an analysis of the level of risk to existing adjacent structures/buildings including the scenario of a construction contractor using vibratory rollers anywhere within the site the subject of these works. In the event that vibratory rollers could affect adjacent structures/buildings, high risk areas must be identified on a plan and indicate that no vibratory rollers shall be used within that zone,
- e. the impact of the installation of services on overall site stability and recommendations on short term drainage methods, shoring requirements and other remedial measures that may be appropriate during installation,
- f. the recommended treatment of any unstable areas within privately owned allotments;
- g. requirement for subsurface drainage lines,
- h. overall assessment of the engineering plans for the proposed development and their suitability in relation to the site's geotechnical characteristics.

16. Retaining Wall

Where a retaining wall exceeds 600mm in height, the wall must be designed by a practising structural engineer and a Construction Certificate must be obtained prior to the commencement of work on the retaining wall. Plans demonstrating compliance with this and the following matters must be submitted to and approved by the certifier prior to the issue of a relevant Construction Certificate:

All retaining walls must be located wholly within the subject property, including footings and aggregate drainage lines.

The construction of retaining walls or associated drainage work must not compromise the structural integrity of any existing structures on the subject site or neighbouring sites.

Aggregate drain pipes must be connected to a legal point of discharge.

Construction of the retaining wall must not compromise the integrity of any existing sewer line, inter-allotment drainage line or other infrastructure. Footings must not be located within a drainage easement. Revised footing locations or deeper footings may be required to prevent impacting on this existing infrastructure. Any damage to this infrastructure arising from the construction or presence of a retaining wall must be rectified by the owner of the land and at their full cost.

17. Verification of Driveway Grades with Council Standards

To verify that vehicular access will comply with Council's requirements, a scaled long section of the proposed driveway, from kerb and gutter at the point of access to the proposed garage floor level must be submitted with the relevant Construction Certificate and must include:

- a. existing natural surface levels,
- b. proposed grades and finished surface levels of the driveways,
- c. preliminary details of the method of treatment of any fill/retaining wall which may be required in conjunction with the proposed driveway.

No part of the driveway must have grades exceeding Council's standards. As such, the long section shall be taken along the critical path, i.e. the side of the driveway that will have the steepest grades.

18. Engineer Designed Pavement

The vehicle pavement must be designed by a qualified civil engineer and certified to be satisfactory for the expected traffic loadings from a development of this size and type. The pavement is to comply with Australian Standard '*Guide to Residential Pavements*' (AS 3727:1993 or subsequent amendments). These details must be submitted with application for a relevant Construction Certificate.

19. Building Plan Approval - Sydney Water

The approved plans must be submitted to a Sydney Water Tap in™ to determine whether the development will affect Sydney Water wastewater and water mains, stormwater drains and/or easements, and if any requirements need to be met. Sydney Water's Tap in™ online service is available at:

<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-watertap-in/index.htm>

The Certifier must ensure that Sydney Water Tap in™ has issued the appropriate electronic approval prior to the issue of any Construction Certificate.

20. Pedestrian Wind Environment

Modified under DA0350/2022 (Part 2) DAM0043/2024

Prior to issue of a relevant Construction Certificate detailed plans consistent with the treatments recommended in the approved Pedestrian Wind Environment Statement reference WG15401DF02(REV4)- WS REPORT dated 18.03.2022 and subsequent Wind Tunnelling Testing, must be submitted to the Principal Certifier for approval.

21. SEPP Housing Design Verification Statement

Modified under DA0350/2022 (Part 2) DAM0043/2024

Prior to the issue of the relevant Construction Certificate, a design verification from a qualified designer, being a statement in which the qualified designer verifies that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out in Schedule 9 of *State Environmental Planning Policy (Housing) 2021* must be submitted to the certifier.

22. Car Washing Facility

Modified under DA0350/2022 (Part 2) DAM0043/2024

Prior to the issue of a relevant Construction Certificate, detailed plans are to be submitted to the Principal Certifier for approval showing that a car washing facility is provided as follows:

- a. within the ground floor car park of Building A includes signage, a water tap and wastewater drainage.
- b. Within the basement car park of Building B including signage, a water tap and wastewater drainage. This facility is to utilise one of the visitor parking spaces.

23. Flood Wall Design

Modified under DA0350/2022 (Part 2) DAM0043/2024

Prior to the issue of a relevant Construction Certificate for Stage 2 a detailed structural design of the proposed retaining wall (flood wall between Buildings D1 and D3) is to be provided to the satisfaction of the Principal Certifier. The flood wall must also to be certified by the hydraulic engineer of Advisian Pty Ltd for its suitability in deflecting flood water as intended in the document titled "Shell Cove Boat Harbour Precinct - Precinct D Apartments Flood Assessment" prepared by Advisian Pty Ltd dated 03 December 2021. The retaining wall is to be generally designed in accordance with the concept design approved on plan No. L1SK01, Revision A dated 08 September 2022.

24. Groundwater Impacts

Modified under DA0350/2022 (Part 2) DAM0043/2024

Prior to the issue of a relevant Construction Certificate plans must be submitted to the Principal Certifier for approval that include details of the recommendations made in Section 4.6 of the Geotechnical Investigation Report reference 3001886-R06 revision 2 dated 10.05.2022.

Recommendations made by the geotechnical engineer must be implemented during construction works.

25. Acoustic Impacts

Modified under DA0350/2022 (Part 2) DAM0043/2024

Prior to the issue of a relevant Construction Certificate plans must be submitted to the Principal Certifier for approval that include details of the recommendations made in the Acoustic Assessment Report reference 20211024.1 revision 3 dated 16.12.2022, and the recommendations made in the Acoustic Assessment Building B – S4.55 Application reference 202112024.6 Revision 2 dated 09.04.2024. Where there are any inconsistencies between the referenced documents with regard to Building B, the S4.55 Acoustic Assessment prevails.

26. Access to Power in Carparks

Modified under DA0350/2022 (Part 2) DAM0043/2024

Prior to the issue of a relevant Construction Certificate plans must be submitted to the Principal Certifier for approval that include details of the installation of appropriate electrical infrastructure and capacity to allow at least 20% of residential parking spaces to charge an electric vehicle at any one time in their own car space.

These details are to be implemented in the construction of the development.

27. Crime Prevention Through Environmental Design

Modified under DA0350/2022 (Part 2) DAM0043/2024

Prior to the issue of a relevant Construction Certificate plans must be submitted to the Principal Certifier for approval detailing how the development will achieve the recommendations in the approved Crime Prevention Through Environmental Design report reference 2210151, dated 06.07.2022, and the recommendations in the approved Crime Prevention Through Environmental Design Statement reference 221051, dated 12.04.2024. Where there are any

inconsistencies between the referenced documents with regard to Building B, the CPTED Statement dated 12.04.2024 prevails.

28. External Lighting Of Building

Documentary evidence must be provided to the Principal Certifier demonstrating that the external lighting strategy of the building does not exceed the limits of the Australian Standard 4282-1997 Control of the Obtrusive effects of outdoor lighting. The lighting strategy must be prepared by a suitably qualified, practicing lighting engineer or lighting designer.

29. Parking Allocation Plan

Modified under DA0350/2022 (Part 2) DAM0043/2024

Prior to the issue of a relevant Construction Certificate a parking allocation plan is to be submitted to Council for approval. The plan is to detail how each parking space is to be allocated and provide details of appropriate signage. The total parking allocation is to be consistent with the approved plans and as follows:

- a. At all times the number of private parking spaces for the residential apartments must be at least 255 spaces.
- b. Each unit must be allocated a minimum of 1 parking space.
- c. More than 1 car parking space (maximum of 2 per unit) may be allocated to 2, 3 or 4 bedroom units.
- d. Pairs of stacked parking spaces must be allocated to the same apartment
- e. The number of visitor car parking spaces must be 73 vehicle spaces.
- f. 10 spaces in Building A must be allocated to the retail units within Building C.
- g. The number of spaces available for public parking within the open air car park located on lot 4006 DP1219051 must be 29 vehicle spaces.

29a. Aquatic Drive Street Parking Amendments

Added under DA0350/2022 (Part 2) DAM0043/2024

Prior to issue of the relevant Construction Certificate relating to development on Lot 4204 DP 1254978 (Building B), a formal 'Aquatic Drive Parking Plan' is to be prepared and submitted to Council and the Local Traffic Committee for approval, and be generally in accordance with the 'Landscape – Parking Aquatic Drive' prepared by Group GSA, issue A, Drawing No. L-PD-SK1, and dated 02.10.2024. The formal plan must include a detailed design of the proposed angle parking, footpath, retaining wall, barrier fencing, and any other construction requirements along Aquatic Drive.

Upon being approved by Council and the Local Traffic Committee, the street parking amendments along Aquatic Drive must be physically completed, prior to issue of an Occupation Certificate. These street parking amendments must provide a total of 20 public parking spaces along Aquatic Drive.

30. Traffic Committee – Signposting and Line Marking Plan

Modified under DA0350/2022 (Part 2) DAM0043/2024

Prior to issue of a relevant Construction Certificate a Signposting and Line Marking Plan must be submitted to Council for approval by the Local Traffic Committee. This plan must detail all facilities, signage and line-marking required within and surrounding the development.

31. Soil and Water Management Plan (SWMP) **Modified under DA0350/2022 (Part 2) DAM0043/2024**

Prior to the issue of the relevant Construction Certificate, a Soil and Water Management Plan (SWMP) must be submitted to the Principal Certifier. The SWMP must clearly identify site features, constraints and soil types together with the nature of the proposed land disturbing activities and also specify the type and location of erosion and sediment control measures. In addition, rehabilitation techniques that are necessary to deal with such activities should be referred to.

The SWMP must take into account the requirements of Landcom's publication Managing Urban Stormwater - Soils and Construction (2004) thus ensuring the following objectives are achieved, namely:

- a. minimise the area of soils exposed at any one time.
- b. conserve topsoil for reuse on site.
- c. identify and protect proposed stockpile locations.
- d. preserve existing vegetation and identify revegetation techniques and materials.
- e. control surface water flows through the development construction site on a manner that:
 - i. diverts clean run-off around disturbed areas.
 - ii. minimises slope gradient and flow distance within disturbed areas.
 - iii. ensures surface run-off occurs at non-erodible velocities.
 - iv. ensures disturbed areas are promptly rehabilitated.
- f. trap sediment on the site to prevent off site damage. Hay bales are not to be used as sediment control devices. To ensure regular monitoring and maintenance of erosion and sediment control measures and rehabilitation works until the site is stabilised (including landscaping).
- g. specifies measure to control dust generated as a result of construction activities on site.
- h. temporary sediment ponds must be fenced where the batter slope exceeds 1 vertical to 5 horizontal.
- i. design scour protection for the 10 year ARI event at all inlet and outlet structures.
- j. including measures to prevent the tracking of sediment off the site.

32. Grated Drain **Modified under DA0350/2022 (Part 2) DAM0043/2024**

Prior to the issue of a relevant Construction Certificate, plans must be updated to show a grated stormwater drain constructed across the driveway adjacent to the vehicle access for Buildings A at Stage 2 and Building B at Stage 1.

33. Flooding Planning Level **Modified under DA0350/2022 (Part 2) DAM0043/2024**

The Flood Planning Level (FPL) (1% AEP + 500mm Freeboard) for this site is shown in Figure 5.1 of Shell Cove Boat Harbour Precinct - Precinct D Apartments Flood Assessment.

5 & 6 Civic Avenue, Shell Cove & 5 Waterfront Promenade, Shell Cove

The Probable Maximum Flood (PMF) Level for the proposed development is as follows:

Proposed development	Probable Maximum Flood (PMF) Level
Building A	South and West = 8.1 m AHD North and East = 6.1 m AHD
Building B	South and West = 6.1 m AHD North and East = 6.1 m AHD
Building C	West = 8.8 m AHD South = 8.5 m AHD East = 6.1 m AHD
Open car park between Building A and C	6.5 m AHD
Proposed development	Probable Maximum Flood (PMF) Level
Open car park in the southern side of Building B	6.2 m AHD

Prior to the issue of a relevant Construction Certificate, details demonstrating that the development complies with the following restrictions must be submitted to the Principal Certifier:

- a. All structures to have flood compatible components up to and including the PMF Level in accordance with Appendix 9 of Shellharbour City Councils Development Control Plan,
- b. An IEAust NER Structural Engineer's certificate certifying that structures are designed to withstand forces of floodwaters, debris and buoyancy up to and including the PMF Level is to be submitted with the Construction Certificate Application.
- c. Vehicles in the open car parks must not cause a nuisance in the PMF event by being caught in flood waters and becoming moving objects. In this regard, vehicle bollards or similar methods of containment are required in areas where the flood velocity and depth exceeds vehicle stability limits. Details of vehicle containment methods are to be certified by a professional engineer with experience in hydraulic engineering, and provided on plans to the satisfaction of the Principal Certifier.

34. Engineer Designed Pavement

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

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

This information must be provided to the Principal Certifier prior to the issue of the Construction Certificate.

35. Commercial Kitchen Exhaust Design **Modified under DA0350/2022 (Part 2) DAM0043/2024**

Any non residential (commercial) kitchen exhaust and any mechanical ventilation must discharge through the roof of the building and must comply with AS 1668.2 - Part 2 (Ventilation Design for Indoor Air Contaminant Control). The kitchen exhaust and any mechanical ventilation and associated ductwork must not discharge through, or be attached to, the outside wall or outside face of the building. This information must be provided to the Principal Certifier prior to the issue of the Construction Certificate.

This condition is relevant to the Stage 2 Construction Certificate (Buildings A and C).

PART C - PRIOR TO COMMENCEMENT OF WORKS

36. Erosion & Runoff Controls

Before work starts, appropriate erosion and runoff controls must be installed to prevent soil erosion, water pollution or the discharge of loose sediment on surrounding land, stormwater systems or watercourses.

These controls may include the following (where applicable):

- a. erect a silt fence,
- b. limit the removal or disturbance of vegetation and topsoil,
- c. divert uncontaminated run-off around cleared or disturbed areas,
- d. install sediment traps/socks around any stormwater inlets and drainage lines,
- e. stockpile topsoil, excavated material, construction and landscaping materials and debris within the site. These should be covered or seeded to prevent loss of these materials,
- f. provide a single vehicle access to the site including measures to prevent the tracking of sediment off the site, and
- g. provide adequate control measures to suppress dust.

These measures must be in place prior to commencement of any excavation or construction works.

37. Dilapidation Report

It is the applicant's responsibility to notify Council of any existing damage to public areas in the vicinity of the development site through the submission of a Dilapidation Report. The report must be supported with suitable photographic records. This information must be submitted to Council prior to the commencement of work.

38. Structural Details

The following structural details must be provided to the Principal Certifier prior to the relevant Construction Certificate:

- a. structural engineer's design for all reinforced concrete footings and slabs,
- b. structural engineers design for all structural steel beams, framing and connections,
- c. roof truss and bracing details, and

- d. manufacturer's specifications for any patented construction systems.

39. Protection Fencing

The street tree protection fencing for the applicable stage must be installed prior to works commencing.

40. Site Management Plan

Prior to the commencement of works, the applicant must submit to and obtain approval for a construction and site management plan from the Principal Certifier that clearly sets out the following:

- a. what actions are proposed to ensure safe access to and from the site and what protection will be provided to the road and footpath area from building activities, crossings by heavy equipment, plant and materials delivery and static load from cranes, concrete pumps and the like,
- b. the proposed method of loading and unloading excavation machines, building materials and formwork within the site,
- c. the proposed areas within the site to be used for the storage of excavated material, construction materials and waste containers during the construction period,
- d. sediment and erosion control measures as per Landcom's publication 'Managing Urban Stormwater - Soils and Construction (2004)' also known as the 'Blue Book' or subsequent revisions,
- e. how it is proposed to ensure that soil/excavated materials are not transported on wheels or tracks of vehicles or plant and deposited on the roadway, and
- f. the proposed method of support to any excavation adjacent to adjoining buildings or the road reserve. The proposed method of support is to be certified by an appropriately qualified and experienced engineer.

41. Construction Traffic Management Plan (CTMP)

Prior to the commencement of works, a CTMP detailing vehicle routes, number of trucks, hours of operation, access arrangements, impact on pedestrians and traffic control must be submitted to and approved by the Principal Certifier. It is the developer's responsibility to adequately inform/brief for construction workers, sub-contractors and supervisors to ensure that the Construction Traffic Management Procedures are adhered to at all times.

42. Section 138 Roads Act 1993

For works within the road reserve, the requirements of the Section 138 of the *Roads Act 1993* apply. In this regard:

- If a driveway is proposed, a Driveway Application must be made, or
- If any other works are proposed and/or occupation of the road reserve proposed, a Road Opening Application must be made.

This application must be made prior to any works commencing within the road reserve and an application fee in accordance with Council's Fees and Charges will apply.

43. Protection of Public Places

Where the work involves the construction of a building and the work is likely to or will cause pedestrian or vehicular traffic in public places (e.g. a footpath) to be obstructed, diverted, rendered inconvenient and enclosed, or similar, a Class B hoarding must be erected between the work site and/or over the public place prior to commencement of works.

If existing pedestrian access is impeded or obstructed, safe alternate provision must be provided.

If a hoarding is not necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place. Any hoarding, fence or awning must be removed when the work has been completed.

Any proposed hoarding, fence or awning proposed within the road reserve will require a specific approval under section 138 of the Roads Act 1993. An application fee will apply in accordance with Council's Fees and Charges.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

44. Soil and Water Management Plan Implementation (SWMP)

Modified under DA0350/2022 (Part 2) DAM0043/2024

The measures required in the Soil and Water Management Plan required by conditions above must be implemented prior to the commencement of works or relevant construction certification as applicable.

44a. Acid Sulfate Soil Management Plan

Added under DA0350/2022 (Part 2) DAM0043/2024

All procedures applicable prior to commencement of works within the Acid Sulfate Soil Management Plan (SMEC 2024) are to be implemented.

45. Street Tree Planting Distances

In accordance with the applicable Stage, the following recommended clearances are to be taken into account prior to the installation of street trees:

- a. minimum 3 metres either side of a driveway or vehicular crossing,
- b. minimum 2 metres from services and signage,
- c. minimum 1.5 metres from a stormwater outlet/pit,
- d. minimum 3 metres from street light posts, and
- e. minimum 15 metres from pedestrian crossing and traffic signals

PART D - DURING CONSTRUCTION WORKS

46. Hours of Work During Building Work

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

47. Maintenance of Soil and Water Management Plan

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

Maintenance must include but is not limited to ensuring:

- a. all sediment fences, sediment traps and socks are properly placed and are working effectively
- b. drains, gutters and roads must be maintained clear of sediment at all times.

It is an offence under the *Protection of the Environment Operations Act 1997* to allow soil or other pollutants to fall or be washed into any waters or be placed where it is likely to fall or be washed into any waters. Substantial penalties may be issued for any offence.

47a. Implementation of Acid Sulfate Soil Management Plan Added under DA0350/2022 (Part 2) DAM0043/2024

All procedures within the Acid Sulfate Soil Management Plan (SMEC, 2024) are to be implemented and adhered to throughout the construction phase of the development.

48. Waste Management

The management of waste must comply with the approved Waste Management Plan. Any variations to the Waste Management Plan must have prior written approval of Council.

49. Storage of Materials

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

50. Survey Certification

Modified under DA0350/2022 (Part 2) DAM0043/2024

A report from a registered surveyor must be provided to the Principal Certifier on completion of the ground floor slab formwork prior to the concrete being poured and/or prior to external walls being raised above ground floor level where there is no ground floor slab.

The report must certify all of the following:

- a. the distance of the structure to all boundaries of the allotment are in accordance with the approved plans,
- b. the height of the floor level/s in relation to the natural ground level are in accordance with the approved plans,
- c. the garage floor level complies with the garage floor level shown on the approved plans and grades comply with Council's gradient standards, and
- d. the basement entry levels are in accordance with the approved plans.

51. Road Construction and Road Drainage Construction for Future Public Carpark

The Contractor must arrange for a satisfactory inspection by Shellharbour City Council of the following works (subject to fees and charges):

- a. all road drainage works prior to backfilling of the work.
- b. all car park construction inspections as per Council's Subdivision Design Code.

Any plans must be accompanied by a compliant ADAC XML digital file. All details to be in accordance with the ADAC Data Capture Guidelines specifications, which is available on Council's website.

52. Building Height - Survey Certification

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

A report from a registered surveyor must be provided to the Principal Certifier on completion of the roof frame, prior to covering the roof, certifying that the height of the building is in accordance with the approved plans.

53. Cut/Fill

The cut and fill areas must:

- a. be suitably retained,
- b. be in accordance with the approved plans,
- c. have a maximum grade of 45 degrees (1:1) where there is no retaining wall or no other method of stabilising the cut/fill area, and
- d. not exceed 1m in depth outside the external walls of a building, unless otherwise approved in writing by Council.

54. Connection to Council Pit and/or Pipe

Any connection to a Council pit and/or pipe must:

- a. be made at the pipe obvert (pipe only),
- b. be through a hole that is neatly made by cutting or drilling with any reinforcement encountered cut away,
- c. not protrude past the inner surface of the pit and/or pipe,
- d. have all junctions finished with 2:1 cement mortar,
- e. have a minimum pipe size of 150mm in diameter and either sewer grade PVC or concrete, and
- f. when the diameter of the connection is more than 1/3 the diameter of the Council pipe, connection is to be made by construction of a standard pit.

All construction is to be carried out as per Shellharbour Engineering Code requirements.

An inspection must be undertaken by Shellharbour City Council prior to backfilling and works approved. At least one working day's notice is required for the inspection and is to be arranged through Council's Customer Services.

An inspection fee will apply in accordance with Council's Fees & Charges.

55. Protection Fencing

The street tree protection fencing must be maintained intact at all times throughout the period of building work on the site. Machinery, structures, storage/disposal of any building materials and the like, must not be located within the fenced area at any time.

56. Protection of Property

The structural integrity of adjoining properties and structures must be protected at all times during construction. All costs associated to any ramification works are strictly borne on the developer.

57. Swimming Pools - Filling with Water

No water must be placed in the pool/spa until the safety fences have been completed in accordance with the approved plans and specifications and inspected by the Principal Certifier.

58. Approved External Materials & Colours Modified under DA0350/2022 (Part 2) DAM0043/2024

The external treatment/appearance of the development must be in accordance with the approved plans reference DA0700 revision 3 dated 23.05.2022, and plan reference DA0701 revision 03 dated 29.11.2024.

Pool fencing is approved as glass fencing or slatted fencing as required.

59. Excavation Material

Excavated material proposed to be reused on site must be confirmed to not be Acid Sulphate Soil (not derived from the alluvial layer).

Excavated material to be disposed of must be tested for waste classification prior to disposal.

Any contaminated material must be sent to a licenced landfill facility.

60. Contamination - Unexpected Finds Contingency

Should any contamination or suspect material be encountered during site preparation, earth works, construction or any other stage of the development, then works must cease immediately and a suitably qualified consultant engaged to conduct a thorough contamination assessment.

In the event that contamination remediation is required, all works must cease and the Council must be notified immediately. The contamination assessment must be submitted to Council for Approval.

All recommendations provided in the contamination assessment must be followed as stipulated.

61. Aboriginal Heritage

If any Aboriginal archaeological artefacts are encountered during construction works, all ground disturbance in the area of the find must cease and the Department of Industry and Environment (DPIE) be contacted immediately to determine an appropriate course of action in line of relevant legislation.

62. Survey Certification

A survey certificate, signed by a Registered Surveyor, shall be submitted for approval when the formwork for the main floor area and basement entry ramp is completed. This certificate shall certify that any main floor area and basement entry will be constructed at the designed level.

63. Pool Backwash - Drainage

Should disposal of backwash from the filtration unit be required, this must be drained to the sewer.

64. Residential Flooding Survey Certification

Removed under DA0350/2022 (Part 2) DAM0043/2024

65. Driveway and Layback - From Kerb to Property Boundary

A standard vehicular concrete driveway and layback must be constructed between the kerb and the property boundary. The driveway must:

- a. maintain a perpendicular alignment from the kerb to the property boundary line
- b. have a width as shown on the approved plan reference DA-0100 revision 17
- c. not interfere with the existing public utility infrastructure
- d. be located 500mm clear of all drainage structures and 2m from any street tree
- e. be finished with a slip resistant coating, and
- f. be constructed by Council, or a Council approved contractor, at the developer's expense, including all alterations of public infrastructure where necessary.

Where there is conflict between the location of the proposed driveway and the assets of a service utility, such as Telstra pits/manholes, the relevant service provider must be contacted prior to any driveway works commencing. It is an offence to modify or tamper with the assets of a service provider.

PART E - PRIOR TO OCCUPATION

66. Occupation Certificate

Modified under DA0350/2022 (Part 2) DAM0043/2024

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

67. Section 73 Certificate

A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water. This Section 73 Certificate must be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

It is recommended that applicants apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

Application must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Land development or telephone 13 2092.

68. BASIX

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

69. Works As Executed - Stormwater Drainage

Prior to the issue of an Occupation Certificate, Works As Executed Plans must be submitted to the Certifying Authority by a registered surveyor certifying compliance of all drainage works with the approved design plans. The Works As Executed dimensions and levels must be shown in red on a copy of the approved Construction Certificate plans. This plan must verify surface and invert levels on all pits, invert levels and sizes of all pipelines, and finished surface levels on all paved areas.

All levels must relate to Australian Height Datum.

These plans must be accompanied by a compliant ADAC XML digital file. All details to be in accordance with the ADAC Data Capture Guidelines specifications, which is available on Council's website.

70. Inspection of Stormwater Pipes

All stormwater pipes within the at grade open carpark areas and within drainage easements intended to be dedicated to Council must be inspected by CCTV. The CCTV must be carried out after all earthworks and road pavement works within the locality of the pipelines has been completed. A copy of the CCTV inspection must be recorded and submitted to the Council prior to the release of the Occupation Certificate. Damaged pipes must either be replaced or repaired to Council's satisfaction prior to the issuing of an Occupation Certificate.

71. Verification of Waste Management

Documentation verifying that all waste streams were managed in accordance with the Waste Management Plan must be provided to the Principal Certifier prior to the issue of an Occupation Certificate. All records, such as waste disposal dockets or photographic evidence, must be retained by the Principal Certifier.

72. Completion of Landscape Works

The development must be landscaped in accordance with the approved landscape plan prior to the issue of an Occupation Certificate. Landscape or turf areas must not be reduced or replaced with hard impermeable surfaces. Any variations to the design or species used must be authorised by Council in writing before any changes are made.

A report from a suitably qualified person must be provided to the Principal Certifier on completion of the landscape works certifying that the landscape is generally in accordance with the approved Landscape Plan.

73. Street Trees

Eight trees must be relocated and/or newly planted on the Council footpath reserve, as follows:

- a. 4 x 75 Lt Tristrianopsis laurina "Luscious" to be located on Waterfront Promenade and 4 x 75 Lt Hibiscus tiliaceus to be located on Civic Avenue
- b. two x hardwood stakes with 50mm hessian ties, fixed in a figure 8, to support each tree
- c. minimum 75mm depth of organic mulch applied a minimum 600mm diameter surrounding the base of the trunk
- d. 1m x 1.5m timber edging installed at the base of the tree constructed from the back of the kerb
- e. trees must be setback a minimum 900mm from the back of the kerb or where a footpath exists, the tree must be planted midway between the footpath and kerb. Where the tree is less than 900mm from the footpath, root barriers must be installed.

74. Street Tree Pre-Occupation Inspection

The street trees must be inspected by Council prior to the occupation of the development. It is the responsibility of the developer to notify Council for the street tree inspection.

75. Repairs to Public Infrastructure

Any damage to public infrastructure, other than that previously noted in the Dilapidation Report (refer Part C), is the responsibility of the developer. All damage must be repaired and reinstated prior to the issue of the Occupation Certificate. This work must be carried out by Council, or Council approved contractor, at the developer's expense.

76. Sign for Visitor and public Parking

Modified under DA0350/2022 (Part 2) DAM0043/2024

In accordance with each Stage, a sign, legible from the street, must be permanently displayed at the entrance to the D1 and D3 open air car park to indicate the availability of residential visitor and public parking (Stage 2), and at the driveway entrance to Building B to indicate the availability of residential visitor parking (Stage 1) prior to the release of the relevant Occupation Certificate.

77. Pedestrian Wind Environment

The treatments and landscaping recommended in the Pedestrian Wind Environment Statement reference WG154-01DF02(REV4)- WS REPORT dated 18.03.2022 and the subsequent wind

tunnelling testing are to be in place prior to issue of an Occupation Certificate and retained in perpetuity.

78. SEPP Housing Verification Statement
Modified under DA0350/2022 (Part 2) DAM0043/2024

Prior to the issue of an Occupation Certificate, Design Verification from a qualified designer must be submitted to the Principal Certifier. Design Verification is a statement in which the qualified designer verifies that the residential flat development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to the design quality principles set out in Schedule 9 of *State Environmental Planning Policy (Housing) 2021*.

79. Liveable Housing Design Guidelines
Modified under DA0350/2022 (Part 2) DAM0043/2024

Prior to the issue of an Occupation Certificate, certification from an appropriately qualified person must be provided to the Principal Certifier certifying that 18 of the residential apartments have been constructed to meet the performance requirements of Silver Level Liveable Housing Design Guidelines (or updated standards).

80. Certification of Adaptable Housing

Certification must be provided from an appropriately qualified person in adaptable housing that the adaptable housing units have been designed and constructed to meet the performance requirements of Australian Standard 4299-1995 Adaptable Housing (or any subsequent version). The certification must be accompanied with relevant documentation as detailed in AS 4299-1995 and submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

81. Sydney Water Trade Waste Agreement

For Stage 2, written approval must be provided to the Principal Certifier prior to issue of the Occupation Certificate that Sydney Water that indicates a trade waste agreement has been entered into for the grease trap that will be utilised for any individual food business operations.

82. Operational Management Plan
Modified under DA0350/2022 (Part 2) DAM0043/2024

Prior to the issue of an Occupation Certificate the developer shall submit an Operational Management Plan (OMP) to the Principal Certifier for approval. The OMP is to address all operational and management procedures to be employed, to ensure that the public parking area within lot 4006 DP 1219051 can be adequately maintained, operate safely and public access is retained.

- a. General Building Requirements:
 - i. Ground Floor Tenancies in terms of use and hours of operation to align with this consent.
 - ii. Operating hours for communal open spaces both internal and external,
 - iii. Operating hours and delivery hours for retail units to align with this consent.

- iv. Public access is retained in perpetuity to the relevant parking areas within lot 4006 DP1219051.
 - v. The internal and external communal open space areas of Building A are to be available for use by all residents within Lot 4006 DP 1219051 in perpetuity. That is, available for use to all residents of both Buildings A and C.
 - vi. Requirement that the operator is responsible for the removal of any graffiti that may appear on any part of the external walls of the building and that it shall be removed within 48 hours of it appearing,
 - vii. All loading and unloading operations associated with servicing the site must be carried out within the confines of the site, at all times and must not obstruct other properties/units or the public way,
 - viii. Loading and deliveries must not occur between 10:00pm and 7:00am,
 - ix. At all times the service vehicle docks, car parking spaces and access driveways must be kept clear of goods and must not be used for storage purposes, including garbage storage.
 - x. Public right of access must be maintained from Waterfront Promenade to Civic Avenue via the through site link in Building B in Lot 4204 DP 1219051 in perpetuity.
- b. Waste removal requirements:
- i. The collection of waste and recycling must only occur between 7.00am and 7.00pm weekdays,
 - ii. Garbage and recycling must be collected wholly within the site.
 - iii. Requirement that all bins must be cleaned on a regular basis by building management,
 - iv. Practical measures are also to be taken to ensure that odour emission from the garbage storage area does not cause offensive odour as defined under the provision of the Protection of the Environment Operations Act, 1997 (as amended),
 - v. For any food and drink premises, used oil shall be contained in a leak proof container and stored in a covered and bunded area prior to off-site disposal. Copies of receipts for the disposal of used cooking oil shall be kept onsite and made available to Council Officers upon request.

The Operational Plan of Management is to be included and complied with as part of the bylaws of any future subsequent strata committee. No change to these bylaws in terms of this plan of management are to be permitted without prior consent of Council.

83. Operational Management Plan - Positive Covenant

Prior to the issue of any Occupation Certificate, a positive covenant is to be created under the Conveyancing Act 1919, requiring the property owner(s) to comply with the requirements of the Operation Plan of Management required by the condition above in perpetuity.

Any amendments to the Operational Plan of Management are to be undertaken in consultation with Shellharbour City Council. The Operational Plan of Management is also to be included as part of any bylaws resulting from the future strata subdivision of the property.

84. Intercom for Parking Levels

The ground floor parking areas and basement parking levels must be accessible to visitors and residents by the location of an intercom (or card controller system) at the car park entry and wired to all units. The intercom must comply with Australian Standards AS1428.2-1992: Design for access and mobility - Enhance and additional requirements - Building and facilities Sections 22 and 23.

Such access control must be installed prior to the issue of the Occupation Certificate.

85. Relevant Leases, Licenses and Easements

Prior to issue of the Occupation Certificate the necessary leases, licenses or easements as relevant need to be obtained from the appropriate authorities including Shellharbour City Council.

This shall include a right of carriage, easement for services and other requirements over Lot 4205 DP1254978.

86. Flood Risk Signage

Signage is to be provided in the basement carpark to warn people that the site may be subject to flooding and to follow the designated evacuation routes from the basement car park including vehicle exit ramp, fire stairs and travelator.

87. Swimming Pool Registration

The swimming pool must be registered on the NSW State wide Swimming Pool Register prior to the issue of an Occupation Certificate.

The following details will be required during registration: owner name, address, contact details, the type of pool, and the approximate age of the pool. A 'self-assessment' checklist will also need to be completed when registering the swimming pool.

Registration of the swimming pool can be completed free of charge by visiting:

<http://www.swimmingpoolregister.nsw.gov.au>

88. Pool Safety

The pool must be enclosed with a fence or barrier that complies with AS1926.1-2012, the Swimming Pool Act 1992 and Swimming Pool Regulations 2018. Compliance with this requirement must be verified prior to the issue of the Occupation Certificate.

Note:

- An approved resuscitation notice must be displayed.
- Gates must swing away from the pool area and must be self-closing.
- Any window that opens into the pool area must be protected in accordance with AS1926.1-2012. Council recommends that windows do not open into pool areas as any protection may obstruct egress from the building in an emergency.

- An effective fence height of 1.2m, and including the prescribed non climbable zone, must be maintained at all times.
- Boundary fences forming part of the pool fence, and including the prescribed non climbable zone, must be no less than 1800mm in height.

PART G - AFTER ISSUE OF OCCUPATION CERTIFICATE/DURING OCCUPATION

89. BASIX Commitments

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

90. Street Tree Bond Refund

Modified under DA0350/2022 (Part 2) DAM0043/2024

The street tree bond will be refunded following a six month maintenance period commencing from the date of the issue of the relevant Occupation Certificate, provided the street trees remain in a satisfactory condition. In the event that any street trees are found damaged, dying or removed, Council will have the option to retain the whole or part of the bond. The developer/Certifying Authority must notify Council for a reinspection of the street trees.

91. Building C – Ground floor Retail Tenancies

The following conditions must be complied with during occupation of the ground floor tenancies.

- a. Hours for Operation 7am - 7pm
- b. Design of the final fit out for ground floor tenancies must ensure they achieve the attenuation measures listed in the approved Acoustic Assessment reference 20211024.1 revision 3 dated 16.12.2022.
- c. Delivery and collection times restricted to between 7am and 8pm daily.

92. Maintenance of Landscaping

All trees and plants forming part of the landscaping must be maintained on an on-going basis. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilizing, pest and disease control and any other operations required to maintain healthy trees, plants and turfed areas.

93. Car Parking Signage and Allocation

Parking spaces must be suitably signed in accordance with the parking allocation plan required by condition 29.

The visitor car parking spaces must always be available for visitor parking and must not at any time be allocated, sold or leased to an individual owner/occupier. In this regard, the visitor car parking spaces must form part of the common property in any future strata subdivision.

The public parking spaces must always be available for public parking and must not at any time be allocated, sold or leased to an individual owner/business.

94. Noise Control

The use of the premises must not give rise to the transmission of offensive noise to any place of different occupancy. Offensive noise is defined in the *Protection of the Environment Operations Act 1997* (as amended).

95. Waste Receptacles

Adequate receptacles must be used to store all landfill and recyclable waste streams pending disposal. Such receptacles must be regularly emptied and waste must not be allowed to lie or accumulate on the premises other than in the receptacle. Provision must be made for the separation and recycling of waste.

The landfill and recyclable waste bins must be stored in the waste storage area located in accordance with the approved plans. At no time shall the bins be located within the car parking, landscaping or manoeuvring areas.

96. Building Use

The retail units hereby approved and shown on plan reference DA-0100 rev. 13 dated 23.05.2022 are approved as retail premises in accordance with the definition from Shellharbour Local Environmental Plan 2013 as follows:

***retail premises** means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following:*

- (a) *(Repealed)*
- (c) *food and drink premises,*
- (d) *garden centres,*
- (e) *hardware and building supplies,*
- (f) *kiosks,*
- (g) *landscaping material supplies,*
- (h) *markets,*
- (i) *plant nurseries,*
- (j) *roadside stalls,*
- (k) *rural supplies,*
- (l) *shops,*
- (la) *specialised retail premises,*
- (m) *timber yards,*
- (n) *vehicle sales or hire premises,*

but does not include farm gate premises, highway service centres, service stations, industrial retail outlets or restricted premises.

97. Enclosure of Balconies

At no time shall any of the balconies within the development site be enclosed.

98. Air Conditioning Units to Façade

Approval is not granted for the installation of individual air conditioning units to the facade or balconies of the building without screening or an enclosure.

99. Works In, On or Over a Public Road

In accordance with section 142(i)(a) of the Roads Act 1993 the person who has a right to the control, use or benefit of a structure or work in, on or over a public road (namely a footpath crossing), must maintain the structure or work in a satisfactory state of repair.

100. Parking

Proposed parking areas, service bays, truck docks, driveways and turning areas shall be maintained clear of obstructions and be used exclusively for purposes of vehicle parking loading/unloading, and vehicle access respectively for the life of the development. Under no circumstances are such areas to be used for the storage of goods or waste materials.

101. Waste Management

Waste shall be managed as follows:

- a. Waste management shall be in accordance with the approved Waste Management Plan
- b. Between collection periods, all waste/recycling materials generated onsite will be securely enclosed in bins and stored in the designated bin storage rooms and these rooms maintained to a reasonable standard in terms of hygiene and cleanliness.
- c. The collection of waste and recycling must only occur between 7.00am and 8.00pm weekdays.
- d. All waste collection and storage is to be contained internally within the buildings.

102. Offensive Noise

The use of the Communal Open Space including the swimming pool must not give rise to the transmission of offensive noise. Offensive noise is defined in the Protection of the Environment Operations Act 1997 (as amended).

103. Flooding Storage of Materials

Modified under DA0350/2022 (Part 2) DAM0043/2024

The Probable Maximum Flood (PMF) Level for the proposed development is as follows:

Proposed development	Probable Maximum Flood (PMF) Level
Building D1	South and West = 8.1 m AHD North and East = 6.1 m AHD
Building D2	South and West = 6.1 m AHD North and East = 6 m AHD
Building D3	West = 8.8 m AHD South = 8.5 m AHD East = 6.1 m AHD
Open car park between Building D1 and D3	6.5 m AHD

Open car park in the southern side of Building D2	6.2 m AHD	
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During Occupation at no time shall materials be stored which may cause pollution or be potentially hazardous during a PMF event.