

## DETERMINATION AND STATEMENT OF REASONS

### SOUTHERN REGIONAL PLANNING PANEL

<b>DATE OF DETERMINATION</b>	28 March 2025
<b>DATE OF PANEL DECISION</b>	28 March 2025
<b>DATE OF PANEL BRIEFING</b>	25 March 2025
<b>PANEL MEMBERS</b>	Chris Wilson (Chair), Juliet Grant, Grant Christmas
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	Council interest DA Graham Rollinson previously declared a declaration of interest and is now no longer a Council nominated panel member.

Papers circulated electronically on 20 March 2025.

#### MATTER DETERMINED

PPSSTH-435 – Shellharbour – DA0237/2024 at 27 Addison Street, Shellharbour (Lot 1 DP 1294313, 29 Addison Street, Shellharbour (Lot 5 DP 238804), Council owned car park to the rear of site (Lots 11 to 15 DP 238004) – Demolition of existing buildings, removal of five (5) trees, construction of shop top housing development comprising of one (1) commercial unit, nine (9) residential units with basement parking and associated works (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, briefings and site inspections as listed at item 8 in Schedule 1.

The panel had the benefit of briefings from the applicant and Council during the assessment of the application.

The proposed development will deliver a mix of housing for Shellharbour. It is considered compatible with the emerging character of the area and will make a positive contribution to the streetscape.

The amenity of adjoining sites is maintained, and the proposed development will deliver good internal amenity for future residents.

#### Development application

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

#### REASONS FOR THE DECISION

The Panel determined to approve the application for the reasons outlined in the Council Assessment Report and particularly given that:

- The proposal is permissible in the E1 Local Centre zone and is consistent with the zone objectives pursuant to the Shellharbour Local Environmental Plan 2013.
- The proposal satisfies the relevant provisions of applicable SEPPs.
- The site of the proposed development is well suited to the intended use.

- The proposal is generally consistent with the Apartment Design Guide and the Shellharbour Development Control Plan 2013 and minor non-compliances have been adequately considered in the assessment of the application and can be managed through conditions of consent where required.
- The height, bulk and scale of the proposed building responds well to site constraints and is compatible with both the existing and emerging future streetscape character of Shellharbour Village area (as established by the controls).
- The development will not compromise the heritage values of adjoining local heritage items.
- Adequate services are available to the site.
- The provision of vehicular access to the site is appropriately managed by the inclusion of a deferred commencement condition which requires the registration of an easement for Right of Carriageway via the council owned car park to the rear of the site.
- The proposal will contribute to the orderly development of the Shellharbour village area.
- The development promotes good residential amenity and will provide diversity of housing in Shellharbour.
- The potential amenity, environmental and land use planning impacts likely to result from the proposed development have been properly examined in accordance with Section 4.15 of the *Environmental Planning and Assessment Act, 1979* and found to be acceptable subject to the imposition of conditions of consent.

## CONDITIONS

The Development Application was approved subject to the conditions recommended in the Council Assessment Report as amended by the Panel as follows:

- **Condition 3** was amended as follows to clarify that where there is an inconsistency between plans and conditions, the condition prevails.

*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.*

- **Conditions 19 and 21** have been amended as follows to ensure consistency across conditions with regard to any potential dewatering plan and the required geotechnical report:
  - **Condition 19** Dewatering Management Plan has been amended to include words 'if required', and 'as detailed in condition 21' providing a link to geotechnical requirements detailed in Condition 21 Geotechnical Report.
  - **Condition 21** links with condition 19, with the inclusion of point 'f', with the following wording 'investigations regarding presence of groundwater, details as to the extent of groundwater across the site, and the requirement, where relevant, for a dewatering management plan'.
- **Condition 59** has been amended to include wording 'if required as stipulated in condition 19'.
- **Condition 98** 'Hours of Operation' has been amended as to include a table of operational hours, which is reflective of the SEPP (Exempt & Complying Development Codes) 2008 to ensure transparency regarding the future retail operating hours:

The hours of operation and trading requirements of the retail tenancy unit on the ground floor must be in accordance with Clause 2.46C(2)(a) and 2.46D of Subdivision 28, Division 1, Part 2 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, as follows:

Day	Hours of Operation
Monday	6am – 10pm
Tuesday	6am – 10pm
Wednesday	6am – 10pm
Thursday	6am – 10pm
Friday	6am – 10pm
Saturday	6am – 10pm
Sunday and Public Holidays	6am – 10pm




The final set of conditions endorsed by the panel is contained in Schedule 2.

### CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition. The Panel notes that issues of concern included:

- Impact of setbacks on aesthetics of building from the public domain
- The bulk and scale of the proposal with regard to surrounding buildings and heritage items
- General building aesthetics
- Car parking provision
- The potential use of development for short-term holiday rental
- Privacy and overlooking
- Heritage impacts
- Social impacts
- Local infrastructure contributions
- Housing mix

The Panel considers that concerns raised by the community have been adequately addressed in Council's Assessment Report and the conditions of consent as imposed.

PANEL MEMBERS	
 Christopher Wilson (Chair)	 Juliet Grant
 Grant Christmas	

## SCHEDULE 1

1	PANEL REF – LGA – DA NO.	PPSSTH-435 – Shellharbour – DA0237/2024
2	PROPOSED DEVELOPMENT	Demolition of existing buildings, removal of five (5) trees, construction of shop top housing development comprising of one (1) commercial unit, nine (9) residential units with basement parking and associated works.
3	STREET ADDRESS	27 Addison Street, Shellharbour (Lot 1 DP 1294313, 29 Addison Street, Shellharbour (Lot 5 DP 238804), Council owned car park to the rear of site (Lots 11 to 15 DP 238004)
4	APPLICANT/OWNER	The Trustee for Indiegro Trust / Mrs M and Mr J Pereira
5	TYPE OF REGIONAL DEVELOPMENT	Council related development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>State Environmental Planning Policy (Sustainable Buildings) 2022</li> <li>State Environmental Planning Policy (Housing) 2021</li> <li>State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>State Environmental Planning Policy (Industry and Employment) 2021</li> <li>Shellharbour Local Environmental Plan 2013</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Shellharbour Development Control Plan 2013</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i></li> <li>Coastal zone management plan: Nil</li> <li>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>The suitability of the site for the development</li> <li>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Council Assessment Report: 19 March 2025</li> <li>Written submissions during public exhibition: 2</li> <li>Total number of unique submissions received by way of objection: 1</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Briefing: 13 December 2024 <ul style="list-style-type: none"> <li><u>Panel members</u>: Chris Wilson (Chair), Juliet Grant, Grant Christmas</li> <li><u>Council assessment staff</u>: Kelly Grieve, Madeline Cartwright, Matt Rawson, Felicity Perna, Cleo Dyer</li> <li><u>Applicant representatives</u>: Simon Green (Verzeal), Luke Rollinson (MMJ Town Planning), Peter Couvaras (Couvaras Architects), Chris Stringer (Couvaras Architects)</li> <li><u>DPIE</u>: Amanda Moylan</li> </ul> </li> <li>Final briefing to discuss council's recommendation: 25 March 2025 <ul style="list-style-type: none"> <li><u>Panel members</u>: Chris Wilson (Chair), Juliet Grant, Grant Christmas</li> <li><u>Council assessment staff</u>: Kelly Grieve, Andrew McIntosh</li> <li><u>Applicant representatives</u>: Simon Green (Verzeal), Luke Rollinson (MMJ Town Planning), Chris Stringer (Couvaras Architects),</li> <li><u>DPIE</u>: Amanda Moylan, Tracey Gillett</li> </ul> </li> </ul>

9	COUNCIL RECOMMENDATION	Approval by way of deferred commencement
10	DRAFT CONDITIONS	Attached to the Council Assessment Report

## Attachment 1: Conditions of Consent

### DEFERRED COMMENCEMENT

Under section 4.16(3) of the Act, this development application has been determined by granting of Deferred Commencement consent, subject to the following matter(s):

i. The Development Consent shall not operate until Council has been satisfied as to the following matters:

a. Registration of Right of Carriageway

The developer, at no cost to Council, must obtain an easement on Lots 11, 12, 13, 14 & 15 DP 238804 for the purpose of a Right of Carriageway.

The Right of Carriageway should be a minimum of 6 metres wide or wider where necessary to allow for adequate access and vehicle circulation.

The easement must be registered with Land Registry NSW.

ii. The developer must satisfy Council, within 24 months of the date shown on the top of this consent, that the matters specified in condition number (i) have been complied with.

iii. If compliance with the matters contained in condition number (i) necessitate a substantial variation to the development approved by this deferred commencement consent, a new development application must be submitted.

**Once Council is satisfied that the matters contained in condition number (i) have been complied with and the developer has been notified in writing of such compliance, the following conditions shall apply in respect of the approved development:**

This development consent has been divided into different parts according to where, during the development process, each condition may be most relevant. Some conditions may be appropriate to more than one part. All conditions must be complied with.

## GENERAL CONDITIONS

### 1. Construction Certificate & PC Notification

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

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

### 2. Prescribed Conditions

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

### 3. Development in Accordance with Plans and Documents

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

Approved plans/Documents				
Plan number	Revision number	Plan title	Drawn by	Date of plan
Project No.: 23023, DA05	N	Demolition Plan	Couvaras Architects	05.02.2025
Project No.: 23023, DA10	N	Site Plan	Couvaras Architects	05.02.2025
Project No.: 23023, DA20	N	Floor Plan – Basement Levels	Couvaras Architects	05.02.2025
Project No.: 23023, DA21	N	Ground Floor	Couvaras Architects	05.02.2025
Project No.: 23023, DA22	N	Floor Plan – Level 1	Couvaras Architects	05.02.2025
Project No.: 23023, DA23	N	Floor Plan – Level 2	Couvaras Architects	05.02.2025
Project No.: 23023, DA24	N	Floor Plan – Level 3	Couvaras Architects	05.02.2025
Project No.: 23023, DA25	N	Roof Plan	Couvaras Architects	05.02.2025
Project No.: 23023, DA26	N	Adaptable Housing Plan	Couvaras Architects	05.02.2025
Project No.: 23023, DA30	N	Elevations and Signage	Couvaras Architects	05.02.2025
Project No.: 23023, DA31	N	Elevations – East and West	Couvaras Architects	05.02.2025
Project No.: 23023, DA32	N	Elevations – Internal North and South	Couvaras Architects	05.02.2025
Project No.: 23023, DA33	N	Streetscape and Context Analysis	Couvaras Architects	05.02.2025
Project No.: 23023, DA40	N	Sections – 7 & 10	Couvaras Architects	05.02.2025
Project No.: 23023, DA41	N	Sections – 14	Couvaras Architects	05.02.2025

Project No.: 23023, DA45	N	Detailed Façade Section	Couvaras Architects	05.02.2025
Project No.: 23023, DA50	N	Construction Management Plan	Couvaras Architects	05.02.2025
Project No.: 23023, DA51	N	Waste Management Plan	Couvaras Architects	05.02.2025
Project No.: 23023, DA53	N	ADG Compliance	Couvaras Architects	05.02.2025
Project No.: 23023, DA60	N	External Finishes	Couvaras Architects	05.02.2025
Project No.: 23023, DA80	N	Right of Carriageway Plan	Couvaras Architects	05.02.2025
Job Ref: 24070-C01 - Sheets 1 to 5	As Lodged	Concept Plan of Drainage Works	CPM Engineering	10.07.2024
L-01 to L-08	C	Landscape Works	Site Design & Studios	21.11.2024

<b>Approved documents</b>			
<b>Document title</b>	<b>Version number</b>	<b>Prepared by</b>	<b>Date of document</b>
BASIX Certificate	1756763M_03	Evergreen Energy Consultants Pty Ltd	19 March 2025
Waste Management Plan	2	MRA Consulting Group	20 January 2025
Traffic and Parking Assessment Report and Construction Traffic Management Report	24035	Terrafic Pty Ltd	21 November 2024
Traffic Light Operation Document	2803-0-1	AGD Australia Pty	5 February 2025
Preliminary Site Investigation	67534	JBS & G	31 July 2024
Statement of Heritage Impact	As Lodged	Heritage Solutions	August 2024
BCA Assessment Report	Report 2024/0668 R1.1	Steve Watson & Partners	July 2024
Arboricultural Impact Assessment Report	V4	Green Earth Tree Consultancy	November 2024
Statement of Compliance – Access for People with a Disability Report	Job No. 224057	Accessible Building Solutions	27 June 2024
SEPP (Housing) 2021 Design Statement	1	Couvaras Architects	1 February 2024

#### 4. Compliance with Notations on Drawings

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



## 5. Endeavour Energy

Correspondence has been received from Endeavour Energy dated 23 September 2024. 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 3 dated April 2022'. This document can be found on the Planning Portal under 'Agency Advice'.

## 6. House Numbering

House numbering will be as follows:

Lot/Unit	Street Number	Street Name	Street Type	Locality
Retail	G01/27	Addison	Street	Shellharbour
1.01	101/27	Addison	Street	Shellharbour
1.02	102/27	Addison	Street	Shellharbour
1.03	103/27	Addison	Street	Shellharbour
2.01	201/27	Addison	Street	Shellharbour
2.02	202/27	Addison	Street	Shellharbour
2.03	203/27	Addison	Street	Shellharbour
3.01	301/27	Addison	Street	Shellharbour
3.02	302/27	Addison	Street	Shellharbour
3.03	303/27	Addison	Street	Shellharbour

- Addresses should be included on the Development Application plans, Construction Certificate and any future Strata Plans and ensure lot numbers on the Subdivision admin sheet are the same as Unit & house numbers on DA & construction plans.
- The allocated number must be displayed prior to occupation. Where plans and details are provided to service suppliers, numbers must be in accordance with the above.
- Letterboxes should be visible from the street and clearly numbered according to the address allocated with both unit and street numbers.

## 7. Utility Services

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

## 8. Housing Productivity Contributions

Before issue of the construction certificate, the housing and productivity contribution (HPC) set out in the table below is required to be made.

Housing and productivity contribution	Amount
Housing and productivity contribution (base component)	\$51,120.96
Transport project component	-
<b>Total housing and productivity contribution</b>	<b>\$51,120.96</b>

The HPC must be paid using the NSW planning portal.

At the time of payment, the amount of the HPC is to be adjusted in accordance with the *Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024* (HPC Order).

The HPC may be made wholly or partly as a non-monetary contribution (apart from any transport project component) if the Minister administering the *Environmental Planning and Assessment Act 1979* agrees.

The HPC is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the *Environmental Planning and Assessment Act 1979* to the development, or the HPC order exempts the development from contribution.

The amount of contribution may be reduced under the HPC Order, including if payment is made before 1 July 2025.

## **BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE**

### **9. Section 7.11 Development Contributions**

A contribution of \$125,308.60, subject to annual indexation, must be paid to Council towards the provision of public amenities and public services prior to the issue of the Construction Certificate. This amount has been calculated in accordance with *Shellharbour City Council's Local Infrastructure Contributions Plan 2019 9<sup>th</sup> Review (Amendment 1) 6 June 2022* in the following manner:

- Residential contribution – Precinct 2, Shellharbour - \$109,273.28
- Payment In Lieu of 2 Car Parking Spaces - \$16,035.32

Open Space contribution	\$ 25,474.19
Community Infrastructure contribution	\$ 73,365.29
Roads & Traffic Infrastructure contribution	\$ 1,878.89
Drainage contribution	\$ -
Administration contribution	\$ 8,554.89
Car Parking contribution	\$ 16,035.34
<b>Total contribution payable</b>	<b>\$ 125,308.60</b>

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

The *Contributions Plan* may be inspected or a copy purchased at the Customer Service Counter at Council's offices, or downloaded from [www.shellharbour.nsw.gov.au](http://www.shellharbour.nsw.gov.au)

### **10. Building Plan Approval – Sydney Water**

The approved plans must be submitted to a Sydney Water Tap In agent 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/plumbing-building-developing/building/sydney-water-tap-in.html>

The Principal Certifier must ensure that Sydney Water Tap In has issued the appropriate electronic approval prior to the commencement of any works.

### **11. Payment of Security Deposits**

Before the issue of the relevant construction certificate, or before demolition work commences, the applicant must pay the following deposits in accordance with Council's Fees & Charges:

- a. existing street tree bond for one (1) existing street tree.
- b. street tree inspection fee for:
  - i. street tree inspection prior to occupation of the development; and
  - ii. street tree inspection following completion of the maintenance period.

Written evidence of the payment and amount paid is to be provided to the Principal Certifier.

## 12. Long Service Levy

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

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

## 13. Amended Plans and Documentation

Before the issue of a Construction Certificate, plans detailing the following design changes are to be submitted to the Principal Certifier for approval. The following design changes are required as follows:

- a. screening surrounding the rooftop air conditioning units must be reduced to be within the allowable 15m building height limit;
- b. intercom/security access to be provided for residents and visitors at the residential entry from Addison Street, as well as to the rear-accessed carpark;
- c. acoustic treatment measures should be provided to all windows of units which adjoin or face towards the communal open space area, so that a minimum measure of 6mm glazing is fitted with acoustic seals;
- d. all public domain works along Addison Street as shown on the approved architectural plans shall be deleted and updated in accordance with the requirements of Condition 15 – Public Domain Plan for Addison Street.

## 14. Required Amendments – Landscaping

Before the issue of a Construction Certificate, the landscape plan must be amended and submitted to the Principal Certifier for approval. The following amendments and details are required:

- a. the removal of trees 1 to 4 and 7 are to be shown on the approved Landscape Plan prepared by Site Design + Studios and dated 21 November 2024;
- b. details of all plants, trees, shrubs and groundcover species must be listed on the in accordance with Appendix 7 of the Shellharbour Development Control Plan 2017;
- c. details on how the existing street tree and vegetation are to be protected during construction, including mapped tree protection zones for all existing trees to be retained in accordance with *AS4970-2009 Protection of trees on development sites*;
- d. an additional 240L FOGO bin is to be provided within the residential bin room on the ground floor, equating to a total of 3 x 240L FOGO bins, in line with the NSW EPA's Better Practice Guide for Resource Recovery in Residential Developments (2019);
- e. the depth of planter boxes on all levels must support the plant species proposed within them, in accordance with Section 4P, Table 5 of the Apartment Design Guide; and
- f. all public domain works along Addison Street as shown on the approved landscaping plans shall be deleted and updated in accordance with the requirements of Condition 15 – Public Domain Plan/ Works for Addison Street.

Where any proposed landscaping is not in accordance with Appendix 7 of the Shellharbour Development Control Plan 2017, written approval must be provided from Council as to the chosen species.

## **15. Public Domain Plan/Works for Addison Street**

Before the issue of any Construction Certificate, a Public Domain Plan for frontage works along Addison Street is to be prepared in consultation with Council's Infrastructure Team and then submitted to and approved by Council.

The Plan must generally align with the stamped approved plans (and subsequent revisions) and include details of the proposed finishes and specifications for the public domain areas around the perimeter of the site.

The Public Domain Plan must show landscaping between the property boundary and kerb including hardstand specifications, location, number and species of street trees to be installed.

The agreed Public Domain Plan must accompany any Section 138 Roads Act application for the encroachment into Council's Road reserve.

Note: Council's Infrastructure Team can be contacted on (02) 4221 6224.

## **16. Appointment of Project Arborist**

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

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

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

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

## **17. Traffic Management**

Before the issue of a Construction Certificate, details relating to the traffic management of the site, including the provision of the proposed traffic light system and its operation (referenced within the approved Traffic and Parking Assessment Report prepared by Terrafig, dated 21 November 2024 and the Traffic Operation document prepared by AGD Australia, dated 5 February 2025) must be provided to Council for approval.

Details must also be provided to Council for approval, showing adequate splays (or similar) adjacent to the vehicle access from Allens Lane carpark. Council approval must then be provided to the Principal Certifier prior to the issue of a Construction Certificate.

## **18. Construction Environment Management Plan (CEMP)**

A Construction Environment Management Plan must be submitted to Principal Certifier for approval before the issue of a Construction Certificate, including the following:

- waste management;
- construction noise: Measures are required in the CEMP to minimise the impact of construction noise according to the EPA Interim Construction Noise Guideline ;
- dust: Measures are required in the CEMP to limit dust;
- sediment and erosion: Sediment and erosion controls are required, to the standards of the Blue Book (Landcom, 2004);
- acid sulfate soils: Unexpected Finds protocol to be included in the CEMP;
- contaminated lands: Unexpected Finds protocol to be included in the CEMP;
- cultural heritage: Stop work protocol to be included in the CEMP for any potential heritage items found during excavation or other works;
- native fauna: A procedure is required in the CEMP to minimise risk to native fauna during vegetation removal;
- native vegetation/trees: Retained native vegetation protection measures and tree protection measures in line with the approved Landscape Plan and in accordance with AS4970-2009 Protection of trees on development sites;
- management of fuels and chemicals;
- emergency and evacuation procedures in accordance with Australian Standard 1940-2004; and
- water management

## **19. Dewatering Management Plan**

A Dewatering Management Plan (DMP), if required, and subject to geotechnical investigations and encountering of groundwater as detailed in condition 21, is to be developed in accordance with NSW Gov Bluebook - Managing Urban Stormwater: Soils and construction - Volume 1 and approved by Council before the issue of a construction certificate.

The Dewatering Management Plan must include the following:

- a. quality and quantity of water to be released;
- b. location of water discharge and at what rate;
- c. monitoring locations and monitoring procedure of the dewatering;
- d. any impacts on downstream biodiversity;
- e. sediment and erosion controls;
- f. relocation of displaced fauna;
- g. treatment of weed species prior to dewatering (if applicable);
- h. testing, treatment and disposal of sediment removed from dam; and
- i. risk assessment including ameliorative measures for problems encountered during dewatering.

Any dewatering must be carried out in accordance with the approval management plan and other relevant conditions related to dewatering.

## 20. Detailed Drainage Design

A detailed drainage design of the site must be submitted and approved before the release of the Construction Certificate. The detailed plan must:

- a. be generally in accordance with Concept Plan of Drainage Works ref no. 24070 prepared by CPM Engineering on 10.07.2024;
- b. drain to the kerb at Addison Street;
- c. indicate the method of disposal of all stormwater and must include existing ground levels, finished surface levels on all paved areas, estimated flow rates, invert levels and sizes of all pipelines;
- d. be to the satisfaction of the Certifying Authority;
- e. be designed to cater for a 1 in 20 year Average Recurrence Interval storm event;
- f. overflow drainage paths are to be provided and be designed to cater for 1 in 100 year Average Recurrence Interval storm event;
- g. comply with Council's Shellharbour Development Control Plan unless variation is specifically noted and approved on DA concept drainage plan;
- g. 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; and
- h. all pits must have flush fitting grates. All pits larger than 600mm x 600mm are to be grated galvanised steel grid hinged and be heavy duty type where traffic loading is expected.

## 21. Geotechnical Report

A geotechnical report, prepared by a suitably qualified and experienced geotechnical engineer must be submitted to the Certifying Authority for approval before the issue of the 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;
- e. requirement for subsurface drainage lines;

- f. investigations regarding presence of groundwater, details as to the extent of groundwater across the site, and the requirement, where relevant, for a dewatering management plan, and
- h. overall assessment of the engineering plans for the proposed development and their suitability in relation to the site's geotechnical characteristics.

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

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

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

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

## **23. Structural Capacity of Stormwater Pipes**

Pipes under buildings shall be structurally designed to withstand all applied forces. Pipes with a grade of greater than 12% require anchor blocks at the top and bottom of the inclined section and at a maximum interval of 3 metres. Details to this effect shall be incorporated in the detailed drainage design that is submitted to the certifying authority for the Construction Certificate.

## **24. Engineer Designed Pavement (Residential)**

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. Pavement to comply with Australian Standard 'Guide to Residential Pavements' (AS3727.1:2016 or subsequent amendments).

## **25. 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 vehicle access to the proposed must be submitted with the Construction Certificate and shall include:

- a. existing natural surface levels;
- b. proposed grades and finished surface levels of the driveway; and
- 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.

## **26. Car Wash Bay**

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

Plans and specifications of the car washing system which have been approved by Sydney Water must be submitted with the application for the Construction Certificate. The car wash bay area must be provided with

a tap and bunded with pre-treatment approved by Sydney Water. The water from the car wash bay must be graded to a drainage point and connected to sewer.

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

## **27. Car Parking – Signage & Line-marking**

All Carparking and waiting bays must be delineated with suitable directional, informative or warning signs in accordance with Australian standards AS2890 series or subsequent amendments. All disabled parking spaces are to be in accordance with AS 2890.6 (*or subsequent amendments*).

## **28. Slip Resistance – Commercial, Retail & Residential Developments**

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

## **29. Residential – Waste Management**

The following waste facilities will be required:

- a. General Waste: 2 x 1,100L – serviced fortnightly
- b. Recycling: 2 x 1,100L – serviced fortnightly
- c. FOGO: 3 x 240L – serviced weekly

All waste and recycling containers are to be stored in an approved waste storage area that is large enough to store the required number of bins, appropriate for the number of units and intended uses of the building, and is to be located in an area of the building that can be adequately serviced by waste collection vehicles. Plans detailing these waste storage arrangements are to be submitted to the Principal Certifier for approval before issue of a Construction Certificate.

## **30. Retail – Waste Management**

The following waste facilities will be required:

- a. General Waste: 1 x 240L waste bins – serviced weekly
- b. Recycling: 2 x 240L recycle bins – serviced weekly

All waste and recycling containers are to be stored in an approved waste storage area that is large enough to store the required number of bins.

If the Waste Storage Area is located in a part of the building that cannot be easily accessed by service providers, it will be the responsibility of the Owners Corporation to arrange alternative arrangements.

Plans detailing these waste storage arrangements are to be submitted to the Principal Certifier for approval before issue of a Construction Certificate.

## **31. Demolition and Construction Management Plan (DCMP)**

Before the issue of any Construction Certificate, a Demolition and Construction Management Plan must be submitted for approval by the Principal Certifier, and must include the following measures:

- a. dedicated construction site entrances and exits, controlled by a traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways;



- b. turning areas within the site for construction and spoil removal vehicles, allowing a forward entry and egress for all construction vehicles on the site;
- c. the location of proposed Work Zones in the egress frontage roadways;
- d. location of any proposed crane standing areas;
- e. a dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries;
- f. material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected;
- g. the provisions of an on-site parking area for employees, tradesperson and construction vehicles as far as possible, or other arrangements to ensure that employees, tradesperson and construction vehicles are not parking within the adjoining car parking area;
- h. a detailed description and route map of the proposed route for vehicles involved in spoil removal and demolition material removal material delivery and a copy of this route is to be made available to all contractors;
- i. a detailed description of locations that will be used for layover for trucks waiting to access the construction site;
- j. construction program that references peak construction activities and proposed construction;
- k. any potential impact to general traffic, cyclists, pedestrians and bus services within the vicinity of the site from construction vehicles during the construction of the proposed works;
- l. alignment with the approved waste management plan and any requirements for the disposal of contaminated waste materials;
- m. location of protective site fencing, including tree protection methods;
- n. location of site storage areas/offices/equipment;
- o. management of Fuels and Chemicals;
- p. unexpected contamination finds and stop work protocols;
- q. cultural heritage stop work protocol;
- r. location of building materials for construction, e.g. stockpiles;
- s. provisions for public safety;
- t. provisions for temporary sanitary facilities;
- u. location and size of waste containers/skip bins;
- v. method used to provide construction noise and vibration management;
- w. methodology utilised for the protection of the Heritage item on adjoining sites; and
- x. construction traffic management details consistent with other required amendments.

The site management measures are to be implemented prior to the commencement of any works including demolition and excavation. The site management measures are to be maintained throughout the works, to maintain reasonable levels of public health, safety and amenity. A copy of the Construction Management Plan must be retained on site and is to be made available upon request.

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

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

Before the release of Construction Certificate, a CTMP detailing vehicle routes, number of trucks, access arrangements, impact on pedestrians and traffic control must be prepared and provided to Council for approval.

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

### **33. Vibration Control Plan**

A Vibration Control Plan that ensures vibration remains within acceptable levels and minimises the potential effects of the development must be submitted to the Principal Certifier for approval, before the release of the Construction Certificate.

The plan must detail the monitoring to be implemented and alarm levels selected in accordance with the type of structures present within the zone of influence of the proposed excavation.

### **34. Site Facilities – Australia Post**

The following must be provided:

- a. location points for mail delivery must satisfy the requirements of Australia Post; and
- b. mail boxes at the front door must be lockable by separate keys, using locks that cannot be opened by common master keys. The mailbox area is to be well lit and secured by the main entry door not accessible to external patrons.

### **35. Lighting Plan**

Prior to the issue of a Construction Certificate, a lighting plan must be prepared and provided to Council for approval. The following details must be included in the lighting plan:

- a. design details of low level lighting for the pedestrian pathways, communal open space and entryways for each unit, including within the alcove which is provided for the main residential entry on Addison Street; and
- b. lighting within the carpark area.

Lighting should meet minimum Australian and New Zealand Lighting Standards. Lighting objectives relevant to crime and fear reduction are outlined in Australian lighting standard AS 1158 and should be adhered to.

All lighting must use white lights, not yellow or orange. Lighting must also be provided so as to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads, where AS 4282-1997 is to be considered for any lighting provided to the Addison Street frontage and facing the rear carpark entrance.

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

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

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

To lodge your application, you will need to submit the following information:

- a. detailed engineering drawings of the proposed works in the road and footpath area;
- b. public domain works as specified in Condition 15;
- c. traffic management plan;
- d. provision of public risk insurance; and
- e. details of timing and length of works.

### **37. Protection of Street Tree**

The one existing street tree 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 before 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; and
- c. be clearly marked at all times with the use of high visibility plastic hazard tape.

## **BEFORE BUILDING WORK COMMENCES**

### **38. Sediment and Erosion Controls**

Sediment and erosion controls are to be installed as outlined in the Construction Environmental Management Plan/sediment erosion control plan and maintained appropriately throughout construction.

### **39. Structural Details**

The following structural details must be provided to the Principal Certifier prior to commencing work:

- a. structural engineer's design for all reinforced concrete footings and slabs;
- b. structural engineer's 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.

The engineer's designs for the footings must take into account the soil classification (and as stipulated within the findings of the geotechnical report), and be designed in accordance with Australian Standard AS 2870.

#### **40. Dilapidation Report**

Before any site work commences, a dilapidation report must be prepared by a suitably qualified engineer detailing the structural condition of adjoining buildings, structures or works and public land, to the satisfaction of the Principal Certifier or Council.

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

No less than seven (7) days before any site work commences, adjoining building owner(s) must be provided with a copy of the dilapidation report for their property(ies) and a copy of the report(s) must be provided to Council (where Council is not the principal certifier) at the same time.

#### **41. 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 Certifying Authority 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.

#### **42. Erosion & Sediment Control**

Erosion and sediment controls must be provided to ensure:

- a. compliance with the approved Erosion & Sediment Control Plan;
- b. removal or disturbance of vegetation and top soil is confined to within 3m of the approved building area (no trees to be removed without approval);
- c. all clean water run-off is diverted around cleared or exposed areas;
- d. silt fences, stabilised entry/exit points or other devices are installed to prevent sediment from entering drainage systems or waterways;
- e. all erosion and sediment controls are fully maintained for the duration of demolition, excavation and/or development works;
- f. controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadway;

- g. all disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar;
- h. compliance with 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time), and the 'Guidelines for Erosion and Sediment Control on Building Sites' (Department of Planning, Housing and Infrastructure) (dated 2024, as amended from time to time).

These measures are to be implemented before the commencement of work (including demolition of excavation) and must remain until the issue of the occupation certificate.

#### **43. Project Arborist – Tree Protection Measures**

Prior to the commencement of any demolition, excavation or construction works on site, the following tree protection measures must be put in place and maintained during the course of construction:

- a. Protection fencing construction of 1.8 m high chain wire mesh supported by robust posts must be installed around the TPZs in accordance with section 4.3 of the Australian Standards AS4970-2009 Protection of trees on development sites;
  - i. Signage must be erected on the individual fence enclosures with the following words clearly displayed: "TREE PROTECTION ZONE, DO NOT ENTER;"
  - ii. Mulch installation across the surface of the TPZ as per section 4.6.1 of AS4970-2009 Protection of trees on development sites. Mulch must be maintained to a depth of 50–100 mm using material that complies with AS4454-2012 Composts, soil conditioners and mulches;
  - iii. No development or associated activity is permitted within the fenced tree protection zone for the duration of works subject to this consent. This includes but is not limited to vehicular or pedestrian access, sheds, washout areas, excavations, backfilling, installation of services (including stormwater), removal of top soil, construction laydown areas, stockpiling of soil or building materials; and
  - iv. Where site access is required within the TPZs, hardwood rumble boards over a 200mm thick layer of wood chip are to be installed.

An AQF Level 5 Consulting Arborist is to document the installed tree protection measures which is to be submitted to the Principal Certifier for approval before the issue of a Construction Certificate.

#### **44. Use of Airspace – Approval under Roads Act 1993**

The granting of development consent does not provide a right of occupation of the Public Road (i.e. awning/verandah/balcony).

The use of the airspace requires a lease under S149 of the Roads Act 1993. An application for use of the airspace is required. Documentary evidence must be submitted to the Principal Certifying Authority validating that the process of obtaining approval has been initiated prior to obtaining a Construction Certificate.

Post receipt of approval from the Director General, application must be made to the Council for a lease. Fees and charges will apply.

#### **45. Protection of Public Places**

Where the work involves the erection or demolition 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.

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.

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

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

### **DURING DEMOLITION/BUILDING WORK**

#### **47. Tree Removal – Five (5) Trees Approved for Removal**

A total five (5) trees (Trees 1-4 and 7 as detailed in the approved Arboricultural Impact Assessment Report prepared by Green Earth Tree Consultancy, dated November 2024) are approved to be removed as part of the works; no other trees are to be removed, pruned, or otherwise damaged.

Trees 5 and 6, as detailed in the approved Arboricultural Assessment Report are to be retained.

#### **48. Project Arborist – Supervision**

The appointed Project Arborist must supervise works. Any excavation to be completed within the tree protection zone of any trees that are to be retained is required to be completed by hand tools. Should any roots greater than 40 mm in diameter be discovered, they are to be assessed by the Project Arborist as per section 4.5.4 of AS4970-2009 Protection of trees on development site. The Project Arborist is to document all supervised works as outlined in Condition 16 - Appointment of a Project Arborist, and submitted to the Principal Certifier for approval prior to issue of the Occupation Certificate. The document may also be requested by Council's Environment Team for review.

#### **49. 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.

#### **50. Driveway and Layback - From Kerb to Property Boundary**

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

- a. maintain a perpendicular alignment from the kerb to the property boundary line;
- b. have a width of 5m;
- 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.

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

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

### **52. Redundant Vehicular Layback**

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

### **53. Survey Certification**

A report from a registered surveyor must be provided to the Principal Certifier.

The report must certify all of the following:

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

Note: Australian Height Datum must be used.

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

The overall building must not exceed the height shown on the approved plans and any subsequent amendments required to reduce the screening of the rooftop air conditioning units, which is to be within the allowable 15m height limit.

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.

### **55. Hours of Work**

Site work must only be carried out between 7:00am and 5:00pm on Monday to Saturday and no site work is to be carried out at any time on a Sunday or public holiday.

Site work is not to be carried out outside of these times except where there is an emergency, or for urgent work directed by a police officer or a public authority.

## **56. Implementation of the Site Management Plans**

While site work is being carried out:

- a. the measures required by the construction site management plan and the erosion and sediment control plan must be implemented at all times; and
- b. a copy of these plans must be kept on site at all times and made available to council officers upon request.

## **57. Construction Environment Management Plan**

A copy of the approved CEMP must be available on site at all times. All contractors are to be inducted with the CEMP (if relevant) before commencing on site.

All measures outlined in the CEMP are to be adhered to throughout the construction phase of the development.

## **58. Compliance with Report Recommendations**

The recommendations of the approved Preliminary Site Investigation prepared by JBS & G, referenced 67534, dated 31 July 2024 are to be fully complied with. Details demonstrating compliance shall be submitted to the Principal Certifier.

## **59. Dewatering Plan**

All measures and requirements in the dewatering management plan (if required as stipulated in condition 19), must be adhered to throughout the construction phase of the development.

## **60. Protection of Native Fauna**

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

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

## **61. Tree Protection During Works**

While site work is being carried out, all required tree protection measures must be maintained in good condition in accordance with:

- a. the construction site management plan required under this consent;
- b. the relevant requirements of AS-4970 Protection of trees on development sites; and
- c. any arborist's report approved under this consent.

This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.

## **62. Storage of Materials**

Building materials and equipment must not be stored on the road reserve/footpath area or within the public car park without Council approval.



### **63. 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.

### **64. 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.

### **65. Unexpected Finds Contingency**

- a. 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.

- b. 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 Climate Change, Energy, the Environment and Water (DCCEEW) be contacted immediately to determine an appropriate course of action in line of relevant legislation.

### **66. Cut/Fill**

The cut and fill areas must:

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

### **67. Demolition – WorkCover, AS2601 & Work Health and Safety Act 2011**

Demolition work must:

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

### **68. 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.

## **69. Records of Disposal**

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

## **PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE**

### **70. Occupation Certificate**

Compliance with all conditions in this section, and in prior sections of this consent, must be verified by the Principal Certifier before the issue of a final Occupation Certificate. The building must not be used until the Principal Certifier issues an Occupation Certificate.

### **71. 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](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Land development or telephone 13 2092.

### **72. BASIX**

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

### **73. 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.

### **74. Landscaping Irrigation of Common Landscape Areas**

All common and private landscape areas including all planter boxes are to have full coverage by a fully automatic irrigation system. The design, materials and installation are to be in accordance with Sydney Water Codes and satisfy all relevant Australian Standards. Details demonstrating compliance shall be submitted to the Principal Certifier, prior to the issue of any Occupation Certificate.

### **75. Completion of Landscape Works and Public Domain Works**

All landscaping works must be completed in accordance with the approved landscape plan and public domain plan before the issue of an Occupation Certificate. Landscape or turf areas must not be reduced or replaced

with hard impermeable surfaces, with the exception of works approved on the public domain plan. 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 in accordance with the approved Landscape Plan.

#### **76. Street Tree Pre-Occupation Inspection**

The street tree 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.

#### **77. Acoustic Attenuation Measures – Units facing Communal Open Space**

A qualified acoustic engineer must certify that the acoustic attenuation measures included as detailed in condition 13(c) have been satisfied. Evidence that these measures have been satisfied must be provided to the Principal Certifier prior to the issue of an Occupation Certificate.

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

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

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

#### **79. Sign for Visitor Parking**

A sign, legible from the public car park, must be permanently displayed to indicate the availability of visitor parking before the release of the Occupation Certificate.

#### **80. Line marking of Car Parking Spaces**

All car parking spaces are to be line marked in accordance with AS1742, Australian Standard Manual of Uniform Traffic Control Devices and RMS's guidelines.

#### **81. Approved External Materials & Colours**

All external materials, finishes and colours are to be consistent with the 'External Finishes' plan prepared by Couvaras Architects (ref: DA60, Issue N, dated 5 February 2025) approved by Council with the development application. Details demonstrating compliance must be submitted to the satisfaction of the Principal Certifier prior to the issue of the Occupation Certificate.

#### **82. Statement Environmental Planning Policy (Housing) 2021 - Design Verification Statement**

A certifying authority must not issue an Occupation Certificate to authorise a person to commence occupation or use of residential flat development unless the certifying authority has received a design verification from a qualified designer, being 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 -State Environmental Planning Policy (Housing) 2021.

### **83. Intercom for Parking Levels**

The ground level parking level must be accessible to residential 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.

### **84. Operational Waste Management Plan**

Prior to the issue of an Occupation Certificate, the developer shall prepare an Operational Waste Management Plan which addresses all operational waste management procedures to be employed, to ensure that all uses, can operate safely and without disturbance to the surrounding locality .

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

- a. the collection of waste and recycling must only occur between 7.00am and 8.00pm weekdays, to avoid noise disruption to the surrounding area;
- b. waste collection vehicles must enter and leave the site in a forward direction;
- c. garbage and recycling must be collected wholly within the site. The waste collection vehicle must park in the designated loading bay;
- d. at no time are any waste bins be presented the kerbside of Addison Street, or Allens Lane;
- c. the bins must be presented within the designated residential/commercial waste removal pick up zone as illustrated on the approved plans;
- d. the respective residential and business bin storage areas must be in compliance with approved plans;
- e. requirement that all bins must be cleaned on a regular basis by building management;
- f. practical measures are also to be taken to ensure that odour emission from the garbage storage area does not cause offensive odour as defined under the provision of the Protection of the Environment Operations Act, 1997 (as amended);
- g. for any future 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 on-site and made available to Council Officers upon request;
- h. the Waste Management Plan - Operational must be available to all residents and tenancies; and
- i. all commercial/retail waste removal to be undertaken by a private contractor, unless otherwise agreed by Council in writing. The waste collection vehicle must enter the site from the public car park accessible via Mary Street.

### **85. Operational Management Plan**

The developer shall prepare an Operational Management Plan which addresses all operational and management procedures to be employed, to ensure that all uses, can operate safely and without disturbance to the surrounding locality.

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

- a. hours of operation of the various uses within the business/retail premises;
- b. noise emissions generated by mechanical plant to satisfy criteria set out in the EPA's Industrial Noise Policy 2000;

- c. management of deliveries, 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;
- d. management measures to control vehicle activity;
- e. the emergency management of the movement of people within and surrounding the site;
- f. maintenance regime – ongoing maintenance of landscaped areas, external finishes and graffiti removal etc;
- g. security management – lighting, CCTV etc;
- h. the necessary operational and maintenance requirements of all landscaped areas on site. Such requirements must ensure that all landscaping is maintained in perpetuity;
- i. 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; and
- j. noise management for communal areas including a restriction on the use between 10pm and 7am.

The Operational Management Plan 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 consultation with Council.

## **86. Security Cameras**

Security cameras are to be installed that provide coverage of the whole of the ground level and basement carpark, and all main external entries at Addison Street and Public Car Park.

The cameras must be operational 24 hours, 7 days a week, must be able to be monitored within a common room and must remain in place for the perpetuity of the consent.

## **87. Repairs to Public Infrastructure**

Before the issue of an Occupation Certificate:

- a. any public infrastructure damaged as a result of the carrying out of work approved under this consent (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) must be fully repaired to the written satisfaction, and at no cost to Council; or
- b. if the works in (a) are not carried out to Council's satisfaction, Council may carry out the works required and the costs of any such works must be paid as directed by Council and in the first instance will be paid using the security deposit required to be paid under this consent.

## **88. Post-construction Dilapidation Report**

Before the issue of an Occupation Certificate a post-construction dilapidation report must be prepared by a suitably qualified person, to the satisfaction of the Principal Certifier or Council, detailing whether:

- a. after comparing the pre-construction dilapidation report to the post-construction dilapidation report required under this condition, there has been any structural damage to any adjoining buildings;
- b. where there has been structural damage to any adjoining buildings, that is a result of the work approved under this development consent; and
- c. a copy of the post-construction dilapidation report must be provided to Council (where Council is not the principal certifier or a principal certifier is not required) and to the relevant adjoining property owner(s).

## **89. Project Arborist – Sign Off**

Prior to issue of an occupation certificate, the Project Arborist is required to undertake a site inspection and provide certification of the health and condition of the trees retained, as per AS4970-2009 Protection of trees on the development sites and within the Council reserve on Addison Street. This documentation is to be provided to the Principal Certifier for approval prior to the issue of an occupation certificate, and may be requested by Council for review.

## **90. Adaptable Housing**

Before issue of an occupation certificate, certification must be provided from an appropriately qualified person demonstrating that two (2) units are capable of meeting the performance requirements of AS 4299-1995 Adaptable Housing (or any subsequent version). Silver level universal design features must be capable of being achieved.

## **OCCUPATION AND ONGOING USE**

### **91. BASIX Commitments**

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

### **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, fertilising, pest and disease control and any other operations required to maintain healthy trees, plants and turfed areas.

### **93. 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).

### **94. Signage**

The location and dimensions of the signage must be in accordance with the approved plans. Additional signage must not be erected or displayed without first gaining development consent from Council, unless carried out as under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

### **95. Waste – Responsibility of Owners Corporation**

The Owners Corporation shall be responsible for presenting all approved waste and recycling receptacles for collection, and returning all receptacles to the Main Waste Collection Room, as soon as practicable after they have been serviced.

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

### **96. Allocation of Visitor Parking**

All four (4) 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.

## 97. Use of Ground Floor Level Tenancy

This approval grants consent for the use of one (1) ground floor tenancy as commercial - retail space as defined in as defined in Shellharbour Local Environmental Plan 2013. The definition is as follows:

**commercial premises** means any of the following—

- (a) business premises,
- (b) office premises,
- (c) retail premises.

**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), (b) (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.

**Note—**

Retail premises are a type of **commercial premises**—see the definition of that term in this Dictionary.

## 98. Hours of Operation – Retail Tenancy

The hours of operation and trading requirements of the retail tenancy unit on the ground floor must be in accordance with Clause 2.46C(2)(a) and 2.46D of Subdivision 28, Division 1, Part 2 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, as follows:

Day	Hours of Operation
Monday	6am – 10pm
Tuesday	6am – 10pm
Wednesday	6am – 10pm
Thursday	6am – 10pm
Friday	6am – 10pm
Saturday	6am – 10pm
Sunday and Public Holidays	6am – 10pm

## 99. Amenity – Retail Tenancy

The approved development shall be conducted at all times so that no interference occurs to the amenity of the area, the footpath, adjoining occupations or residential/business premises.

## 100. Music and/or Amplifiers – Retail Tenancy

Music and other amplified sound, including recorded or broadcast programmes or the like, played on the

premises, shall be controlled so as not to cause any distraction or disturbance to nearby or adjacent residents, pedestrians or motorists, and shall only be audible within the property boundaries.

#### **101. Parking Spaces – Number & Allocation**

Onsite parking spaces must be provided (as a minimum), as follows:

- a. 14 residential parking spaces – Minimum of 1 and maximum of 2 car parking spaces per unit;
- b. 4 residential visitor parking spaces (including 1x car wash bay); and
- c. bicycle racks for five (5) bikes.

#### **102. Outdoor Lighting**

Outdoor lighting must comply with AS 4282-1997: Control of the obtrusive effects of outdoor lighting. The maximum luminous intensity from each luminaire must not exceed the Level 1 control relevant under Table 2.2 of AS 4282. The maximum illuminance and the threshold limits must be in accordance with Table 2.1 of AS 4282.

#### **103. Enclosure of Balconies**

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

#### **104. Street Tree Bond Refund**

The street tree bond will be refunded following a six month maintenance period commencing from the date of the issue of the Occupation Certificate, provided the street 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 tree.

#### **105. Operational Plan of Management**

The ongoing use of the development shall comply with the Operational Plan of Management as conditioned via this development consent in perpetuity.

The Operational Management Plan is also to be included as part of any bylaws resulting from the future strata subdivision of the property.

#### **106. Storage – Car Parking Area**

Storage provided for each unit within the car parking area must be able to be securely locked and closed.

#### **107. Air Conditioning**

The use of any air conditioner must not cause offensive noise at any time.

Note: Compliance with this requirement may necessitate the provision of an acoustic enclosure or acoustic treatment to the system and/or the restriction of hours of use of the air conditioning system. The Protection of the Environment Operations (Noise Control) Regulation 2000 prohibits the use of any air conditioner at prescribed times when it can be heard in adjoining premises.