

Attachment C: Shellharbour Local Environmental Plan 2013

Part 1 Preliminary		
1.4	Definitions	Seniors housing means a building or place that is— (a) a residential care facility, or (b) a hostel within the meaning of State Environmental Planning Policy (Housing) 2021, Chapter 3, Part 5, or (c) a group of independent living units, or (d) a combination of any of the buildings or places referred to in paragraphs (a)–(c), and that is, or is intended to be, used permanently for— (e) seniors or people who have a disability, or (f) people who live in the same household with seniors or people who have a disability, or (g) staff employed to assist in the administration of the building or place or in the provision of services to persons living in the building or place, but does not include a hospital. Note— Seniors housing is a type of residential accommodation—see the definition of that term in this Dictionary. Residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling, co-living housing or multi dwelling housing. Note— Residential flat buildings are a type of residential accommodation—see the definition of that term in this Dictionary.
1.9A	Suspension of covenants, agreements and instruments	Within the scope of the development application, consent is sought for the release of restriction Right of Carriageway 15 Wide and Variable. As per Schedule 8, Part 1 of the Conveyancing Act 1919 the right of carriageway is defined as follows; <i>Full and free right for every person who is at any time entitled to an estate or interest in possession in the land herein indicated as the dominant tenement or any part thereof with</i>

		<i>which the right shall be capable of enjoyment, and every person authorised by that person, to go, pass and repass at all times and for all purposes with or without animals or vehicles or both to and from the said dominant tenement or any such part thereof.</i> The proposed development to extinguish the existing right of carriage, and relocate the carriage to align with the proposed internal access road, Road no.1. The amendment to the site access design aligns the restriction on title to the infrastructure supporting the instrument. As per Schedule 8, Part 14 of the Conveyancing Act 1919, the right of access is defined as follows; <i>1 The owner of the lot benefited may— (a) by any reasonable means pass across each lot burdened, but only within the site of this easement, to get to or from the lot benefited, and (b) do anything reasonably necessary for that purpose, including—</i> <i>• entering the lot burdened, and</i> <i>• taking anything on to the lot burdened, and</i> <i>• carrying out work within the site of this easement, such as constructing, placing, repairing or maintaining trafficable surfaces, driveways or structures.</i> <i>2 In exercising those powers, the owner of the lot benefited must— (a) ensure all work is done properly, and (b) cause as little inconvenience as is practicable to the owner and any occupier of the lot burdened, and (c) cause as little damage as is practicable to the lot burdened and any improvement on it, and (d) restore the lot burdened as nearly as is practicable to its former condition, and (e) make good any collateral damage.</i> As stipulated within the terms of the restriction Shellharbour City Council are the Authority permitted to vary the easement. As such, Council permits the release of the Right of Carriageway for the creation of right of carriageway along the Road No. 1. The easement site associated and aligned to Road No.1.
Part 2 Permitted or prohibited development		
2.2 & 2.3	Zoning of land and Zone objectives and land use table	The subject site is located within the R3 Medium Density Residential zone. The objectives of the zone are as follows: <i>• To provide for the housing needs of the community within a medium density residential environment.</i> <i>• To provide a variety of housing types within a medium density residential environment.</i> <i>• To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i>

		The proposal is satisfactory with regard to the zone objectives as the proposal seeks consent to provide dedicated senior housing in the form of four residential flat buildings. Seniors housing in the proposed residential flat building arrangement is permissible in the R3 zone with consent.		
2.6	Subdivision – consent requirements	Not Applicable.		
2.7	Demolition requires development consent	Consent for the demolition of the existing internal access road and tree removal is sought as part of the subject proposal.		
2.8	Temporary use of land	Not Applicable		
Part 4 Principal development standards				
4.1	Minimum subdivision lot size	No subdivision is proposed.		
4.1A	Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings		The subject site exceeds the minimum lot size of 600m² required for the proposed residential flat buildings land use.	
	Land use	Zone		Min lot size
	Residential flat building	R3		900m²
4.1B	Exceptions to minimum lot sizes for certain residential development.		Not Applicable.	
4.3	Height of buildings		The Height of Buildings Map identified a maximum building height of 12 m for the subject site. In accordance with cl 4.24 of the <i>Environmental Planning and Assessment Act 1979</i> , the provisions of the concept approval prevail. The modified concept approval approved the building envelopes, thus the maximum height of buildings and storey composition, being a maximum height of 20m. The proposed height presents a maximum height of 19.9m, henceforth is consistent with the maximum height under the modified concept approval.	
4.4	Floor Space Ratio		The Floor Space Ratio Map identified a maximum floor space ratio of 0.7:1 for the subject site. In accordance with cl 4.24 of <i>Environmental Planning and Assessment Act 1979</i> , the provisions of the concept approval prevail. The modified concept approval outlines a maximum GFA of 45,800m² for the site, which is 1.075:1.	

		The proposed GFA is 17,608m ² and forms a FSR of 0.38:1, thus is compliant with the development standard specified under the concept approval. The stage 1 GFA form 38.45% of the overall site development.
4.5	Calculation of floor space ratio and site area	The FSR and site area have been calculated in accordance with the provisions of this clause.
4.6	Exceptions to development standards	Not Applicable – the concept approval prevails of the development standards specified within the instrument, as detailed above.
Part 5 Miscellaneous provisions		
5.1	Relevant acquisition authority	Not Applicable.
5.1A	Development on land intended to be acquired for public purposes	Not Applicable.
5.2	Classification and reclassification of public land	Not Applicable.
5.3	Development near zone boundaries	Not Applicable.
5.4	Controls relating to miscellaneous permissible uses	Not Applicable.
5.6	Architectural roof features	Not Applicable.
5.7	Development below mean high water mark	Not Applicable.
5.8	Conversion of fire alarms	Not Applicable.
5.10	Heritage conservation	The subject site is not identified as a local heritage item pursuant to Schedule 5 Environmental Heritage.
5.11	Bush fire hazard	Any bushfire hazard reduction works are to be undertaken in accordance with the Rural Fires Act 1997.
5.12	Infrastructure development and use of existing buildings of the Crown	Not Applicable.
5.13	Eco-tourist facilities	Not Applicable.
5.16	Subdivision of, or dwellings on, land in certain rural, residential or conservation zones	Not Applicable.
5.18	Intensive livestock agriculture	Not Applicable.
5.19	Pond-based, tank-based and oyster aquaculture	Not Applicable.

5.20	Standards that cannot be used to refuse consent— playing and performing music	Not Applicable.
5.21	Flood Planning	The subject site is identified as being affected by flood hazard within the Elliot Lake flood study. The proposal has been reviewed by Councils Floodplain Engineer who has advised that the proposal would be consistent with the objectives of this clause. The proposal is considered to satisfy the objectives of the control, and the matters outlined at Part 3.
Part 6 Additional local provisions		
6.1	Acid sulfate soils	The subject site is not affected by Acid Sulfate Soils.
6.2	Earthworks	The proposal includes substantial earthworks to facilitate the proposed development noting the construction of a split-level basement, and cut and fill to accommodate suitable paths of travel for all levels of mobility. The scope of works pertaining to the earthworks are noted to be acceptable and do not present unreasonable or compromised impacts of the adjoining site. The built form and building footprint is generally complementary to the site and the site fall. Council Development Engineers have considered the proposed earthwork design and deemed the arrangement and pattern to be satisfactory. The relevant conditions have been imposed within the draft notice of determination.
6.4	Stormwater management	Councils Stormwater Engineer has considered the proposal against the requirements of this clause and a conditionally satisfactory referral response provided. The proposal is considered to be consistent with the objectives of the clause and satisfies the requirements of Part 3. Conditions recommended are included within the draft consent. The proposal was accompanied by a concept stormwater plan which demonstrates drainage to the street and includes on site detention. The stormwater design would not be expected to result in adverse runoff impacts to adjoining properties.
6.5	Terrestrial Biodiversity	The subject site is not mapped as being Environmentally Sensitive Land on the Terrestrial Biodiversity Map.
6.6	Active Street Frontages	The frontage of the subject site is not identified on the Active Street Frontages Map.
6.7	Airspace operations	The subject site is within the 52m - 127m Obstacle Limitation Surface Area, with the site mapped under the OLS line RL 100. The proposed development would not encroach on the OLS, with the maximum RL being 60.20.
6.8	Development in areas subject to aircraft noise	The subject site is not within the area mapped as being subject to aircraft noise.

6.9	Essential services	The site is serviced by all required essential services.
6.10	Significant mineral resources	Not Applicable.
6.11	Development within the Transition Area	Not Applicable.
6.12	Location of sex services premises	Not Applicable.
6.13	Restricted development area	Not Applicable.
6.14	Development of land at 120 Yellow Rock Road, Tullimbar	Not Applicable.