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NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION

Issued under the Environmental Planning and Assessment Act 1979 Section 4.16(1)(a)

Being the applicant of Development Application No. 0385/2017 for consent to the following development:

SHOP TOP HOUSING COMPRISING OF 45 RESIDENTIAL APARTMENTS, 8 FOOD AND DRINK/BUSINESS PREMISES, 2 LOT STRATUM SUBDIVISION AND ASSOCIATED WORKS COMPRISING OF A CARPARK & PUBLIC DOMAIN WORKS (PRECINCT D)

**LOT: 5065 DP: 1221924
(FORMERLY KNOWN AS LOT 8032, DP 1072187)**

BOOLLWARROO PARADE, SHELL COVE

Determination date of consent: 16 May 2019

Note: This Approval will lapse 5 years from the date of consent.

In accordance with section 4.15 of the Act the Development Application has been determined by the GRANTING OF CONSENT UNDER THE SOUTHERN REGIONAL PLANNING PANEL (Ref: 2017STH025 – SELLHARBOUR – DA 385/2017) SUBJECT TO THE CONDITIONS DESCRIBED BELOW.

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.

Yours sincerely



Grant Meredith
Group Manager City Development

On behalf of Carey McIntyre, General Manager

PART A – ADMINISTRATIVE CONDITIONS

1. Construction Certificate & PCA Notification Environmental Planning & Assessment Act 1979 Section 81A

Before any site works, building, demolition 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 Certifying Authority.

2. Prescribed Conditions

This development consent is subject to the prescribed conditions made under the *Environmental Planning & Assessment Regulation 2000*. The prescribed conditions include compliance with the *Building Code of Australia*.

3. Development in Accordance with Plans and Documents

The development must be in accordance with the approved Development Application plans as endorsed by Council's stamp except as modified by conditions of this consent.

Name of Plan/Document	Prepared By	Drawing/Document No./Revision		Date
Site Plan	HDR	DA03	F	25.10.18
Site Analysis	HDR	DA04	F	25.10.18
Ground Floor Plan	HDR	DA08	F	25.10.18
Mezzanine Plan	HDR	DA09	F	25.10.18
Level 01	HDR	DA10	G	7.11.18
Level 02	HDR	DA11	G	7.11.18
Level 03	HDR	DA12	G	7.11.18
Lower Roof Plan	HDR	DA13	G	7.11.18
Roof Plan	HDR	DA14	F	25.10.18
Sections - Sheet 1	HDR	DA15	F	25.10.18

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Name of Plan/Document	Prepared By	Drawing/Document No./Revision		Date
Elevations - Sheet 1	HDR	DA16	F	25.10.18
Elevations - Sheet 2	HDR	DA17	F	25.10.18
Elevations - Sheet 3	HDR	DA18	G	7.11.18
Visualisation - Sheet 1	HDR	DA19	F	25.10.18
Visualisation - Sheet 2	HDR	DA20	F	25.10.18
Proposed Finishes Palette	HDR	DA21	F	25.10.18
Basix and Thermal Comfort Inclusions	HDR	DA24	F`	25.10.18
Stage 2 DA - General Arrangement	Group GSA	LS2-1101-10	10	27.06.18
Stage 2 DA - General Arrangement	Group GSA	LS2-1102-09	09	11.05.18
MUD Podium - Plan	Group GSA	L-SK-0001	C	29.10.18
Stage 2 DA General Arrangement Section	Group GSA	LS2-3100	08	27.06.18
Stage 2 DA - Landscape Details	Group GSA	LS2-4000	2	11.05.18
Stage 2 DA - Landscape Details	Group GSA	LS2-4001	1	11.05.18
Stage 2 DA - Landscape Materials Palette	Group GSA	LS2-8000	6	11.05.18
Detail Plan - Sheet 1 of 2	Henry & Hymas	15D09_DA_C101	3	14.08.18
Detail Plan - Sheet 2 of 2	Henry & Hymas	15D09_DA_C102	2	14.08.18
Draft Stratum Subdivision - Shell Cove Town Centre - Stage 2 Mixed Use	Beveridge Williams	1601522_1_3_1	1	1.08.17
Thermal Comfort & Basix Assessment	Efficient Living	18-0204	B	26.02.18

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Name of Plan/Document	Prepared By	Drawing/Document No./Revision		Date
Section J Report - Energy Efficient Analysis and Report	Efficient Living	-	01	29.06.17
Waste Management Report	Wasteless	-	-	-
Silver Level Apartment	HDR	DA_SK03	A	-
Carpark Storage	HDR	DA_SK04	C	-
Lobby Entry	HDR	DA_SK05	-	-
Typical Apartments - Sheet 1	HDR	DA_SK06	-	-
Typical Apartments - Sheet 2	HDR	DA_SK07	-	-
Typical Apartments - Sheet 3	HDR	DA_SK08	-	-
Typical Apartments - Sheet 4	HDR	DA_SK09	-	-
Residential Storage Areas	HDR	DA_SK10	D	-
Stage 2 Boundary Wall	HDR	DA_SK11	-	-
Future Signage	HDR	DA_SK12	-	-
Retail Signage	HDR	DA_SK16	A	-
Contaminated Land Comment	Douglas Partners	78599.28	1	14.08.18
Catchment Plan	Henry & Hymas	15D09_DA_C250	1	14.08.18
Seating Plan	HDR	SK249	A	-

PART B - PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

4. Amendments to Approved Plan

The amendments indicated and described below must be incorporated in the overall development and must be reflected in any plans prepared for the purpose of obtaining a Construction Certificate:

- a. The development must provide at least four dwellings as Silver Level Apartment, and
- b. The surface of the material used for the paving at the cross over of the loading dock at the Tavern building must be treated with different surface materials both visually and in texture (ie. blister paving). Any surface treatment must comply with *AS/NZS 4586:2004 (including amendments) Slip resistance classification of new pedestrian surface materials*.

5. Compliance With Cross Ventilation

The amendments indicated and described below must be incorporated in the overall development and must be reflected in any plans prepared for the purpose of obtaining a Construction Certificate.

The location and design of all skylights and ventilation ducts must facilitate natural cross ventilation in accordance with the Apartment Design Guide.

A statement endorsing the achievement of the above must be obtained from a suitably qualified and experienced consultant in natural ventilation design and assessment. The statement shall be provided to the Certifying Authority.

6. SEPP No. 65 - Design Quality Of Residential Apartment Development

In accordance with clause 143A of the *Environmental Planning & Assessment Regulation 2000*, a Certifying Authority must not issue a Construction Certificate for residential apartment development unless the Principal Certifying Authority has received a design verification from a qualified designer, being a statement in which the qualified designer verifies that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out in Part 2 of *State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development*.

7. Section 94 Contributions

A contribution of \$469,816.10, 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 *Section 94 Contributions Plan 2016 Amendment 1 dated 8 March 2017* in the following manner:

- Residential contribution - \$503,749.10,
- Credit for Passive Open Space Embellishment – (\$35,186.02), and
- Non-residential contribution – Tier 2 - \$1,253.02.

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

8. Long Service Levy

The Long Service Levy must be paid prior to the issue of the Construction Certificate.

9. Landscape Inspection Fee

The developer must lodge with Council an inspection fee of \$655.00 in accordance with Council's *Fees and Charges* prior to the issue of the Construction Certificate for:

- landscape inspection prior to occupation of the development, and
- landscape inspection following completion of the maintenance period.

10. Landscape Plan

Two copies of a landscape plan prepared by a suitably qualified and experienced Landscape Architect must be submitted to the Accredited Certifier or Council prior to the release of the Construction Certificate. The landscape plan must be prepared in accordance with the concept landscape plan drawing no. 13294 – LS2-1000 Issue 07 prepared by Group GSA Pty Ltd and dated 2/12/2016 or as required by amendments by conditions of consent and/or the below:

- a. the use of the plant species *Gazania tomentosum*, *Rhaphiolepis indica* & cultivars, *Pennisetum* spp & cultivars and the tree species *Cupaniopsis anacardioides* and any other plant species that are considered Noxious or an Environmental Weed within the Shellharbour local government area must not be used,
- b. tree species selected throughout the carpark area and adjacent to a designated person with disabilities must not be hazardous to vehicles and pedestrians. The tree species *Banksia integrifolia* must not be used throughout the proposed carpark area or adjacent to any pedestrian pathway,
- c. all plant species adjacent to any carparking space must not exceed the maximum mature height of 300mm excluding clear trunk trees, and
- d. all tree and plant species must be tolerant to the environmental site conditions and all tree and plant locations must be shown on the landscape plan, and
- e. indicating the proposed method of water-proofing and drainage of the concrete slabs over which landscaping is proposed.

11. Vehicle Parking Spaces - Number & Allocation

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

- a. 66 residential parking spaces.

12. Car Parking Spaces - Dimensions

All car parking spaces must be designed in accordance with the Australian Standards.

13. Car Parking Spaces

All car parking facilities and spaces must be in accordance with the following Australian Standards:

- a. AS2890.1 - 2004 for Off-street Car Parking Facilities,
- b. AS2890.2 - 2002 for Off-street Commercial Vehicle Parking Facilities, and
- c. AS2890.6 - 2009 for Off-street Parking Facilities for People with a Disability.

An Australian Standards compliance assessment of the proposed parking facilities is to be undertaken to the satisfaction of the Principal Certifying Authority prior to the approval of the Construction Certificate.

14. Acoustic Attenuation

Prior to the issue of the Construction Certificate, a Noise Impact Assessment Report is to be prepared by a suitably qualified acoustic engineer and submitted to the Principal Certifying Authority for approval. The report must provide noise mitigation strategies that reflect the following requirements:

- a. the building treatments achieve the noise criteria detailed in Table 1 of the *Frasers Property Australia Shell Cove Waterfront Precinct – Precinct Acoustic Management Plan, Issue 1, Ref AC08, dated 29 November 2018* prepared by ARUP, and
- b. specifications for the treatments required to mitigate building services equipment which adopt the recommendations listed in *Section 5.3* of the *Shell Cove Waterfront – Stage 2 DA – Supplementary Acoustic Report, Issue 2, Ref AC09, Issue 2, dated 8 May 2018*, prepared by ARUP.

The above design and construction requirements must be detailed on the Construction Certificate drawings and/or specifications accompanying the construction drawings and approved by the Principal Certifying Authority prior to the release of the Construction Certificate.

15. Noise Management Plan – Ground Floor Food And Drink Premises/Business Premises

A Noise Management Plan for all ground floor business premises that ensures compliance with the noise criteria detailed in *Table 7* of the *Shell Cove Waterfront – Stage 2 DA – Supplementary Acoustic Report, Issue 2, Ref AC09, Issue 2, dated 8 May 2018*, prepared by ARUP, must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate.

The Noise Management Plan must consider recommendations from the report including:

- a. background music shall generally be limited to internal areas and speakers not directed out to external areas to reduce subsequent need for patrons to further raise voices in conversation,
- b. noise limiters should be installed on all sound systems,
- c. speakers shall be mounted to limit potential structure borne noise and vibration transfer to residential apartments, and
- d. close operable façade at the primary building alignment, with exception of primary entry doors, at 10 pm.

16. Shoring and Adequacy of Adjoining Property EP & A Act s80A(11) / EP & A Regulation c198E

Where the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- a. protect and support the adjoining premises from possible damage from the excavation, and
- b. where necessary, underpin the adjoining premises to prevent any such damage.

The condition referred to above does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

Details, where relevant, must be submitted to the Certifying Authority prior to the issue of a Construction Certificate.

17. Soil and Water Management Plan (SWMP)

Prior to the issue of the Construction Certificate, the applicant must submit to and obtain the Certifying Authority approval of a Soil and Water Management Plan. The SWMP must clearly identify site features, constraints and soil types together with the nature of the proposed land disturbing activities and also specifies the type and location of erosion and sediment control measures. In addition rehabilitation techniques that are necessary to deal with such activities should be referred to.

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

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

- i. design scour protection for the 10 year ARI event at all inlet and outlet structures, and
- j. including measures to prevent the tracking of sediment off the site.

18. Detailed Drainage Design

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

- a. be generally in accordance with Concept Stormwater Plan Ref. No: 15D09_DA_101 Rev. 2 prepared by Henry & Hymas,
- b. drain to the existing stormwater network pits,
- c. indicate the method of disposal of all stormwater, 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, and
- g. comply with Council's *Shellharbour Development Control Plan* unless variation is specifically noted and approved on DA concept drainage plan.

19. Acoustic Attenuation

Prior to the issue of the Construction Certificate, a Noise Impact Assessment Report is to be prepared by a suitably qualified acoustic engineer and submitted to the Principal Certifying Authority for approval. The report must provide noise mitigation strategies that reflect the following requirements:

- a. the building treatments achieve the noise criteria detailed in Table 1 of the *Frasers Property Australia Shell Cove Waterfront Precinct – Precinct Acoustic Management Plan, Issue 1, Ref AC08, dated 29 November 2018* prepared by ARUP, and
- b. specifications for the treatments required to mitigate building services equipment which adopt the recommendations listed in *Section 5.3* of the *Shell Cove Waterfront – Stage 2 DA – Supplementary Acoustic Report, Issue 2, Ref AC09, Issue 2, dated 8 May 2018*, prepared by ARUP.

The above design and construction requirements must be detailed on the Construction Certificate drawings and/or specifications accompanying the construction drawings and approved by the Principal Certifying Authority prior to the release of the Construction Certificate.

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The Noise Management Plan must consider recommendations from the report including:

- a. background music shall generally be limited to internal areas and speakers not directed out to external areas to reduce subsequent need for patrons to further raise voices in conversation,
- b. noise limiters should be installed on all sound systems,
- c. speakers shall be mounted to limit potential structure borne noise and vibration transfer to residential apartments, and
- d. close operable façade at the primary building alignment, with exception of primary entry doors, at 10 pm.

21. Shoring and Adequacy of Adjoining Property EP & A Act s80A(11) / EP & A Regulation c198E

Where the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- a. protect and support the adjoining premises from possible damage from the excavation, and
- b. where necessary, underpin the adjoining premises to prevent any such damage.

The condition referred to above does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

Details, where relevant, must be submitted to the Certifying Authority prior to the issue of a Construction Certificate.

22. Soil and Water Management Plan (SWMP)

Prior to the issue of the Construction Certificate, the applicant must submit to and obtain the Certifying Authority approval of a Soil and Water Management Plan. The SWMP must clearly identify site features, constraints and soil types together with the nature of the proposed land disturbing activities and also specifies the type and location of erosion and sediment control measures. In addition rehabilitation techniques that are necessary to deal with such activities should be referred to.

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

- a. minimise the area of soils exposed at any one time,
- b. conserve topsoil for reuse on site,
- c. identify and protect proposed stockpile locations,
- d. preserve existing vegetation and identify revegetation techniques and materials,
- e. control surface water flows through the development construction site on a manner that:
 - i. diverts clean run-off around disturbed areas,
 - ii. minimises slope gradient and flow distance within disturbed areas,
 - iii. ensures surface run-off occurs at non-erodible velocities, and

- iv. ensures disturbed areas are promptly rehabilitated.
- f. trap sediment on site to prevent off site damage. Hay bales are not to be used as sediment control devices. To ensure regular monitoring and maintenance of erosion and sediment control measures and rehabilitation works until the site is stabilized (includes landscaping),
- g. specifies measures to control dust generated as a result of construction activities on site,
- h. temporary sediment ponds must be fenced where the batter slope exceeds 1 vertical to 5 horizontal, and
- j. design scour protection for the 10 year ARI event at all inlet and outlet structures, and including measures to prevent the tracking of sediment off the site.

23. Detailed Drainage Design

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

- a. be generally in accordance with Concept Stormwater Plan Ref. No: 15D09_DA_101 Rev. 2 prepared by Henry & Hymas,
- b. drain to the existing stormwater network pits,
- c. indicate the method of disposal of all stormwater, 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, and
- g. comply with Council's *Shellharbour Development Control Plan* unless variation is specifically noted and approved on DA concept drainage plan.

24. Pit Grates

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.

25. Structural Design of Deep Pits

All pits deeper than 0.9 metres must be designed by a certified structural engineer and be in accordance with AS 3600-2009.

Pits deeper than 1.2 metres must have galvanised steel step irons (plastic coated black steel step irons will not be accepted) and pits deeper than 1.8 metres are to be reinforced concrete. Step irons at 300mm interval spacing from bottom of pit. Top step minimum 500mm below top surface level. Details to this effect shall be incorporated on the detailed drainage design that is submitted to the certifying authority for the Construction Certificate.

26. Structural Capacity of Stormwater Pipes

Pipes under buildings shall be structurally designed to withstand all applied forces. Details to this effect shall be incorporated on the detailed drainage design that is submitted to the certifying authority for the Construction Certificate.

27. Grading Levels Around Specialty Unit 1

The pavement area outside specialty unit 1 (located in the north eastern corner of the building near Road 10) must be properly graded as to ensure all overland flows and ponding water are directed away from the entry to the building.

28. Open Car Parking

Vehicles must not cause a nuisance in the Probable Maximum Flood event by being caught in flood waters and becoming moving objects. In this regard, vehicle bollards or similar method of containment are required in areas where the flood velocity and depth exceeds vehicle stability limits. Details of vehicle containment methods are to be certified by a professional engineer with experience hydraulic engineering and provided on plan to the satisfaction of the Certifying Authority.

29. Road and Drainage Plans (Future Public Carpark)

The road and drainage plans for the public carpark must be prepared by a suitably qualified Engineer, in accordance with Council's *Subdivision Design Code*. The plans must be submitted to the Certifying Authority for approval prior to the release of the Construction Certificate. All road and drainage work must then be constructed in accordance with Council's construction standards and approval at no cost to Council.

All stormwater pipes within the road reserve, carparks and within drainage easements intended to be dedicated to Council must be installed generally to the HS3 standard in accordance with the current edition of *AS 3725 - Design for Installation of Buried Concrete Pipe*.

30. Engineer Designed Pavement

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

The (future) public carpark pavement must be designed with one layer of asphalt having a minimum thickness of 40mm AC10.

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

31. Pavement Grade

All paved areas must have a minimum grade of 1%.

32. Garbage Storage Room

Prior to the issue of the relevant Construction Certificate, the applicant must demonstrate how the following has been achieved within the development together with the requirements of the outcomes listed with the report prepared by *Wasteless Consulting, Shell Cove Stage 2 Mixed Use Waste Management Report* (as amended):

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- a. A garbage storage room is to be identified on the construction plans and shall be fully enclosed and be provided with a concrete floor, with concrete or cement rendered walls coved to the floor. The floor shall be graded to an approved sewer connection incorporating a sump and galvanised grate cover or basket. A hose cock shall be provided within the room. Garbage rooms shall be suitably vented in accordance with AS 1668.2 Mechanical Ventilation of Buildings,
- b. The waste/recycling storage area or room/s have been sized to meet the waste and recycling needs of all future tenants and designed so that the size and layout is capable of accommodating reasonable future changes in use of the development,
- c. The waste/recycling storage area for the residential apartments must be separate to that provided for the commercial tenancies,
- d. The waste/recycling storage area or room/s have been sized to meet the waste and recycling needs of all future tenants and designed so that the size and layout is capable of accommodating reasonable future changes in use of the development
- e. The proposed central floor waste located in the "Waste Room" is provided in accordance with the requirements of Sydney Water,
- f. Between collection periods, all waste/recycling materials generated onsite will be securely enclosed in bins and stored in the designated storage rooms/area, and
- g. The development must incorporate separate waste/recycling storage bins. Commercial tenants must be prevented (via signage and/or physical) barriers from using the residential waste/food organics/recycling bins and vice versa to prevent conflict.

Note: The *Wasteless Consulting, Shell Cove Stage 2 Mixed Use Waste Management Report* notes that there are only 5 food and drink premises. This report must be updated to 8 food and drink premises and appropriate apportionments to be estimated in the waste to be generated and collected.

33. Waste Management Plan – Operational

Prior to the Construction Certificate being issued, a waste management plan – operational must be developed demonstrating how the site will manage its operational waste. The plan must include:

- i. how waste will be managed by the operator of the facility,
- ii. how waste will be disposed and appropriately collected by a private contractor,
- iii. detail arrangements for ensuring bins are stickered and ensuring staff/relevant persons are aware of how to use the waste management system correctly, and
- iv. identify potential barriers to maximising resource recovery and minimising landfill disposal and develop possible workable solutions to overcome identified barriers.

The Waste Removal strategy for the site relies on the collection of waste by a private contractor. No responsibility of waste removal is borne on Council.

34. Site Facilities - Australia Post

- a. Location points for mail delivery must satisfy the requirements of Australia Post.
- b. Street numbers must be obtained from Council's GIS Department during normal office hours, prior to the issue of an Occupation Certificate. The allocated street numbers must be clearly shown on the Construction Certificate drawing.

35. Utilities - Sydney Water

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

Please refer to the web site www.sydneywater.com.au for:

- SydneyWaterTapin™ www.sydneywater.com.au/SA/plumbing-building-developing/building/sydney-water-tap-in/index.htm, and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building & Developing then Building & Renovating or telephone 13 20 92.

The Certifier must ensure that Sydney Water Tap in™ has issued appropriate electronic approval.

36. Electricity Substation & Visual Impact

Any substation installed must be screened from all street frontages and public places by the use of screen enclosures and/or landscaping. Screening measures must not compromise the requirements of the electricity supplier. Details must be submitted with the Construction Certificate Application.

37. Reflectivity of Materials

The visible light reflectivity (reflectivity index) of the roof and other external building materials/colours (including exposed windows) must not exceed 20%. Written evidence that this requirement is not exceeded must be submitted to the Certifying Authority prior to issue of the Construction Certificate.

38. External Street Lighting of Carpark

The developer must submit a Public Lighting Design Brief to the Principal Certifying Authority for approval for the provision of street lighting on all new public roads and carparks dedicated to Council. A street lighting design plan must be prepared for the external carpark and submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate. All costs associated with the installation of street lighting must be borne by the developer.

In respect to the car parking lighting, energy efficient LED or equivalent luminaires is encouraged.

39. External Lighting of Building

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

40. Crime Prevention Through Environmental Design

- a. The development must include security measures. Such measures are to include the following:

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- i. use sensor lights to encourage user safety and illuminate potential offenders after dark,
 - ii. incorporate additional lighting below awnings to adequately illuminate footpath areas,
 - iii. illuminate possible concealment and entrapment areas particularly in car parks,
 - iv. lighting strategies that enable users to identify a face from within 15 metres to assist with personal safety,
 - v. light access routes for user safety and to encourage surveillance,
 - vi. the development is to ensure appropriate security and locking mechanisms on all entry/exit points including main doors, roller doors and fire escapes,
 - vii. Access control shall be installed to the car parking area, residential forecourt areas and foyers to permit admission of authorised persons only (including employees of the commercial premises and residents). An intercom system shall be installed to enable controlled access for visitors,
 - viii. the car park roller door to be a security grille to allow for passive surveillance, and
 - ix. mail boxes must be lockable by separate keys, using locks that cannot be opened by common master keys. The mail box area is to be well lit and secured by the main entry door and not accessible to external patrons.
- b. Graffiti resistant surfaces and paint must be used at the ground level of the development. Details of such surfaces and paint are to be shown on plan or included in building specifications and are to be submitted with the Construction Certificate application to the satisfaction of the Principal Certifying Authority.
- c. All landscaping must be designed to avoid creating concealment opportunities. In this regard, trees must have a growth habitat that allows visibility in and around the trunk to a minimum height of 2m. Details are to be shown on the Landscape Plan and submitted with the Construction Certificate application.

Full details concerning the above security arrangements for the site must be provided on plan and/or written submission with the Construction Certificate application.

41. Kitchen Exhaust Design

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

42. Sydney Water Trade Waste Agreement

Provide written approval from Sydney Water that indicates that a trade waste agreement has been entered into for the grease trap that will be utilised for the individual food business operations. This information must be provided to the Principal Certifying Authority prior to issue of the Construction Certificate.

PART C - PRIOR TO COMMENCEMENT OF WORKS

43. Dilapidation Report

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

44. Structural Details

The following structural details must be provided to the Certifying Authority 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.

45. 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,
- g. all haulage routes for trucks transporting soil, materials, equipment or machinery to and from the site must be selected to provide the shortest travel distance (or most appropriate) from the site to a state road, and
- i. all soil, materials, equipment or machinery are delivered to or removed from the site shall be transported within the hours of operation specified in the development consent.
- j. All loads entering or leaving the site are securely covered:
 - i. all vehicles exiting the site are securely covered.
 - ii. all vehicles exiting the site do so in a forward direction, and
 - iii. all vehicles exiting the site shall not track soil, mud or sediment onto the road.

46. Soil and Water Management Plan Implementation (SWMP)

The measures required in the Soil and Water Management Plan approved by the Certifying Authority must be implemented prior to the commencement of works.

47. Construction Traffic Management Plan (CTMP)

Prior to the commencement of works, a CTMP detailing vehicle routes, number of trucks, hours of operation, access arrangements, impact on pedestrians and traffic control must be submitted to and approved by the Certifying Authority.

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

48. Protection of Public Places

- a. 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 (eg. 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 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*.

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

49. 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*.

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. traffic management plan,
- c. provision of public risk insurance, and
- d. details of timing and length of works.

50. Public Liability

Prior to the commencement of works, 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.

PART D - DURING CONSTRUCTION WORKS

51. Hours of Work During Building Work

Noise generating activities, including demolition, excavation, construction and delivery of equipment and materials, must only be carried out between:

- 7am to 5pm Mondays to Fridays, and
- 8am to 3pm Saturdays

unless otherwise agreed to by Council in writing. Work must not be carried out on Sundays or public holidays.

52. Site Management Plan and Construction Traffic Management Plan

The Site Management Plan and Construction Traffic Management Plan must be implemented and adhered to at all times during construction works.

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

The Contractor must arrange for a satisfactory inspection by Shellharbour City Council of the following works:

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

54. Car Parking Wheel Stops

All car parking spaces within the future public car park must be fitted with wheel stops.

55. Subdivision Design Code Compliance

All works to be dedicated as a Council asset must be installed/constructed in accordance with Council's *Subdivision Design Code*.

56. Traffic Committee - Signposting and Line Marking Plan

Prior to the implementation of the Signposting and Line Marking Plan, the Plan must be lodged with the City of Shellharbour Traffic Committee for written approval. This plan must detail all facilities, signage and line-marking required within and surrounding the development.

57. Building Height - Survey Certification

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

A report from a registered surveyor must be provided to the Certifying Authority on completion of the setting out of the basement levels, and again prior to covering the roof, certifying that the height of the building is in accordance with the approved plans.

58. 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.

59. Site Waste Minimisation and Management Plan

The Site Waste Minimisation and Management Plan submitted must be adhered to throughout all stages of the construction process.

60. 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.

61. Geotechnical Testing - Drainage

Geotechnical testing must be carried out and results submitted to the Certifying Authority to verify that the pipe trench bedding and backfill complies with the requirements outlined in Australian Standard *AS 3725 - Design for Installation of Buried Concrete Pipe*. Geotechnical testing must verify that the pipe trench bedding and backfill complies with the requirements for HS3 bedding/backfill must be performed at the rate of one test per 50m of pipeline with not less than two tests in any section of pipe exceeding 25m in length.

62. 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.

63. Maintenance of Erosion & Runoff Controls

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

Maintenance must include but is not limited to ensuring:

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

64. Air Quality (Dust and Odours)

Dust emissions shall be confined within the site boundary. The following dust control procedures may be employed to achieve this objective:

- a. dust screens may be erected around the perimeter of the site,
- b. all loads entering or leaving the site must be securely covered,
- c. water sprays may be used across the site to suppress dust,
- d. all stockpiles of contaminated soil shall be covered if remaining more than 24 hours, and
- e. when excavating, the surface should be kept moist to minimise dust.

65. Provide a Truck Shaker

An approved truck shaker must be provided at the construction entry point, in accordance with Council's standards prior to the commencement of work to prevent dust, dirt and mud falling on roadways. Ingress and egress from the site must be limited to this single access point only.

66. Contingency for Unexpected Findings of Contaminated or Hazardous Materials

Should any contamination or suspect material be encountered during site preparation, earth works, construction or any other stage of the development, works must cease immediately, and a suitably qualified consultant engaged to conduct a thorough contamination assessment and provide recommended management actions to guide the management of any contamination onsite. Council must be notified if this protocol is required to be enacted.

PART E - PRIOR TO OCCUPATION

67. Inspection of Stormwater Pipes Within the Future Public Carpark

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

68. SEPP No. 65 - Design Quality of Residential Apartment Development

In accordance with clause 154A of the *Environmental Planning & Assessment Regulation 2000*, a Certifying Authority must not issue an Occupation Certificate to authorise a person to commence occupation or use of residential flat development unless the Principal Certifying Authority has received a design verification statement from a qualified designer. The statement from the qualified designer must verify that the residential apartment 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 Part 2 of *State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development*.

69. Sydney Water Grease Tap Installation

The proposed food and drink/business premise must have appropriately designed grease taps install prior to the Occupation Certificate to avoid unnecessary retro-fitting upon final occupation of individual tenancies.

70. Repairs to Public Infrastructure

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

71. BASIX

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

72. Occupation Certificate

All conditions in Parts A, B, C, D & E of this consent are preconditions for the purpose of section 109H of the *Environmental Planning & Assessment Act 1979*. Compliance with all preconditions must be verified by the Principal Certifying Authority prior to issue of a final Occupation Certificate. The building must not be used until the Principal Certifying Authority issues an Occupation Certificate.

73. Sydney Water Section 73 Compliance Certificate

A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation.

Application must be made through an authorized Water Servicing Coordinator. Please refer www.sydneywater.com.au > Building and Developing > Developing your Land > Water Servicing Coordinator or telephone 13 2092 for assistance. Please make early application 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.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

74. Electricity Supply

Prior to the release of the Occupation Certificate for the development, the relevant electricity provider must provide written advice to the Principal Certifying Authority that all requirements for the supply of electricity to the proposed allotments have been satisfied.

75. Works As Executed Plans - Storm Water Drainage Building

Works As Executed plans (for the relevant stage) must be submitted to the Certifying Authority by a registered surveyor certifying compliance with the approved design plans in relation to all drainage works.

The Works As Executed dimensions and levels must be shown in red on a copy of the approved Construction Certificate plans.

76. Works As Executed Plans – Future Public Carpark

Works As Executed plans must be submitted to the Principal Certifying Authority by a Registered Surveyor with the Occupation Certificate application. The Works As Executed dimensions and levels must be shown in red on a copy of the approved Construction Certificate plans. As a minimum the plan must show:

- a. compliance with the approved design plans of all drainage works within council land, road reserve and drainage easements including connection into the subject lot/s, surface and invert levels of all pits, invert levels and sizes of all pipelines,
- b. certification from a registered surveyor that all storm water pipes and other services are wholly within an appropriate easement,

- c. compliance with the approved design plans of paved areas within rights of carriageway and road reserve,
- d. the extent, depth and final levels of filling,
- e. the location of all underground service conduits, and
- f. all deviations from the approved Civil Engineering Plans.

All levels must relate to Australian Height Datum.

77. Waste Management Signage

Directional signage is to be provided to clearly identify garbage, recycling and organics bins/storage area and the materials accepted.

78. Acoustic Verification Report

Prior to the issue of an Occupation Certificate, a suitable qualified acoustic engineer is to provide a written Acoustic Verification Report validating that the development complies with the requirements set out condition 13 Acoustic Attenuation.

79. Completion of Landscape Works

The unbuilt upon land, with the exception of the paving, must be landscaped in accordance with the approved Landscape Plan prior to the issue of an Occupation Certificate. Landscape or turf areas must not be reduced or replaced with hard impermeable surface. 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 Certifying Authority on completion of the landscape works certifying that the landscape is in accordance with the approved landscape plan.

80. Relevant Leases, Licences and Easements

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

STRATUM SUBDIVISION

81. Stratum Subdivision

Development consent for the stratum subdivision has been approved under the *Environmental Planning & Assessment Act 1979*. It will now be necessary to obtain a Stratum Certificate under the *Strata Schemes (Freehold Development) Act 1973*. In this regard, it will be necessary to submit:

- a. a Stratum Certificate application form,
- b. three paper prints or copies of the subdivision plan and the Stratum Plan Administration sheet. Plans are not to be creased,
- c. fees appropriate at the time of submission of the application, and
- d. information as detailed on the Stratum Certificate application form.

82. Stratum By Laws Plan

Lots affected by new or existing utility services must be burdened with easements and restrictions on the use of land to the satisfaction of the Principal Certifying Authority and the relevant utility provider.

Restrictions must also be placed on title with respect to:

- a. access and maintenance for structures on the boundary or immediately adjacent to the boundary,
- b. each residential apartment must be allocated 1 space per 1 bedroom unit, 2 spaces for 3 bedroom units and a combination of 1-2 spaces for 2 bedroom units,
- c. each strata unit and storage area as shown on the car park storage plan,
- d. the Plan of Management required by condition 78 Plan of Management for the Building,
- e. the Noise Management Plan required by condition 14,
- f. the communal open space must be available for the use all residents of the building, and must be designated as common property on any strata subdivision of the site, with no exclusive use rights,
- g. the provision of legal and practical access (eg. reciprocal rights of carriageway),
- h. drainage structures, and
- i. the provision of landscaping within the communal open space must be maintained in perpetuity.

83. Strata Plan Certificate

Where the certification of the Strata Plan is undertaken by an Accredited Certifier, a copy of the Certified Strata Plan with details of the issuing Certifier is to be provided to Council for recording purposes.

Where Council acts as the Certifier for the Strata Plan, the final occupation certificate for the development must be lodged with Council prior to the issuing of any such Certification.

PART G - AFTER ISSUE OF OCCUPATION CERTIFICATE/DURING OCCUPATION

84. Plan of Management for the Building

Notwithstanding any other condition of this development consent, a Plan of Management must be produced and implemented by the operator of the building. The plan shall include the following minimum operating requirements:

- a. *General Building Requirements:*
 - i. condition of use of Ground Floor Tenancies as prescribed in condition 80 and 81 below,
 - ii. 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,
 - iii. 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,
 - iv. the loading dock must not operate between 10:00pm and 7:00am, and

- v. at all times the service vehicle docks, car parking spaces and access driveways must be kept clear of goods and must not be used for storage purposes, including garbage storage.
- b. *Waste Removal Requirements:*
- i. the collection of waste and recycling must only occur between 7.00am and 8.00pm weekdays, to avoid noise disruption to the surrounding area,
 - ii. garbage and recycling must be collected wholly within the site. At no time pay garbage bins be presented on the future public carpark,
 - iii. the bins must be presented within the designated commercial waste removal pick up zone as illustrated on the approved plans,
 - iv. the bin storage area must be in compliance with conditions of consent,
 - v. requirement that all bins must be cleaned on a regular basis by building management,
 - vi. 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),
 - vii. for the 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,
 - viii. the Waste Management Plan - Operational must be available to all residents and tenancies, and
 - ix. all waste removal to be undertaken by a private contractor.
- c. Acoustic mitigation requirements as required by this development consent (as amended).

85. Acoustic Noise Testing

The operator of the premises is required to undertake relevant acoustic testing to demonstrate that the noise criteria is being achieved as required by Table 7: Predicted noise levels in report Frasers Property Australia Shell Cove Waterfront – Stage 2 DA – Supplementary acoustic report, Issue 2, Ref AC09, dated 8 May 2018 prepared by ARUP. The testing must occur during the first 12 months of the operation of the subject premises and Tavern premises and based on the following premises and adjoining and based on the following:

- a. at least 5 times during the 12 month period, with two samples taken during the summer period, and
- b. at peak times, including Saturday mid-afternoon and evening.

Where the testing has shown non-compliances with noise criteria detailed in *Table 7: Predicted noise levels in report Frasers Property Australia Shell Cove Waterfront – Stage 2 DA – Supplementary acoustic report, Issue 2, Ref AC09, dated 8 May 2018* prepared by ARUP, appropriate operational mitigation measures must be implemented in the plan of management and noise management plan for the site. Such mitigation strategies must be implemented immediately.

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Documentary evidence must be provided to Shellharbour City Council. The evidence must demonstrate the above and lodged with Council not more than 3 months after the testing period. This must include any revised operational and noise management plans.

86. Use of Ground Floor Tenancies

This approval grants consent for the use of the ground floor tenancies and only as food and drinks premises or business premises as defined in *Shellharbour Local Environmental Plan 2013*. The definition of each use is as follows:

Food and drink premises: means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following:

- a. a restaurant or cafe,
- b. take away food and drink premises,
- c. a pub, and
- d. a small bar.

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

- a. (Repealed),
- b. cellar door premises,
- 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,
- m. specialised retail premises,
- n. timber yards, and
- o. vehicle sales or hire premises, but does not include highway service centres, service stations, industrial retail outlets or restricted premises.

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Business premises: means a building or place at or on which:

- a. an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or
- b. a service is provided directly to members of the public on a regular basis, and includes a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.

The total maximum number of seats to service the food and drink premises cannot exceed 500 seats.

87. Conditions of Use for Ground Floor Tenancies

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

- a. hours for Operation 7am – 11pm,
- b. Signage – the signage for each tenancy unit must be restricted to the signage envelopes as approved by plan *Future Signage*, drawn by HDR, drawing number DA_SK12. No other signage is permitted to be erected, including the use of A-Frame signs, and
- c. Design of the final fit out for ground floor tenancies must ensure they achieve the attenuation measures listed in Section 5.3 of the *Shell Cove Waterfront – Stage 2 DA – Supplementary Acoustic Report, Issue 2, Ref AC09, Issue 2, dated 8 May 2018*, prepared by ARUP.

88. Health - Food Premises - Plans & Specifications

Details of the construction and fit out of food premises (including store rooms) must be submitted to Principal Certifying Authority. The plans and specifications must demonstrate compliance with the:

- a. *Food Act 2003* (as amended),
- b. Food Regulation 2010 (as amended),
- c. *Food Standards Code* as published by Food Standards Australia,
- d. New Zealand and Australian Standard AS4674:2004 Design, Construction and fit out of food premises (as amended), and
- e. Sydney Water - trade Waste Section.

89. Health - Food Premises - Inspection & Registration

Prior to the occupation or use of any food premises:

- a. a satisfactory final inspection must have been undertaken by the Principal Certifying Authority certifying that the food premises including any food storage and cleaning areas complies with the following:
 - *Food Act 2003*, Food Regulation 2010, *Food Standards Code* as published by Food Standards Australia (as amended),
 - New Zealand and Australian Standard AS4674:2004 Design, Construction and fit out of food premises (as amended), and

- Sydney Water - trade Waste Section.
- b. the food proprietor must submit to Shellharbour City Council a '*Food Business Registration Form*'. The form can be found on Council's website by visiting:
<http://www.shellharbour.nsw.gov.au/Documents/Forms-and-Application/Compliance/Food-business-registration-form.aspx>

90. Enclosure of Balconies

At no time shall any of the Balcony's within the development site be enclosed.

91. BASIX Commitments

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

92. Protection of the Environment Operations Act 1997

Any activity including waste generation being carried out with this approval shall not give rise to offensive odour or pollution of land and/or water as defined under the *Protection of the Environment Operations Act 1997*.

93. Air Conditioning Units to Façade or Balconies of Buildings to Be Enclosed

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

94. Parking – Signage (Loading Dock)

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

95. Maintenance Period – Future Public Car Park

All carpark and drainage works, must be maintained for a minimum period of 12 months commencing from the date of the issue of the final Occupation Certificate, unless otherwise agreed to in writing by Council. The developer must ensure that any defective works shall be rectified and/or replaced during the maintenance period in accordance with the approved construction certificate plans. All costs arising during the maintenance period must be borne by the developer. All carpark and drainage works must be maintained in its original construction condition for this liability period. The developer must notify Council for a re-inspection at the end of the maintenance period.

96. Flooding Storage of Materials

The future public carpark areas is identified as flood prone. During Occupation at no time shall materials be stored which may cause pollution or be potentially hazardous during a PMF event.

REASONS FOR THE IMPOSITION OF CONDITIONS

1. To minimise any possible adverse environmental impacts of the proposed development.
2. To ensure that the amenity and character of the surrounding area is protected.
3. To ensure that the design and siting of the development complies with the provisions of Environmental Planning Instruments and Council's Codes and Policies.
4. To ensure that the development does not conflict with the public interest.

Advisory Notes - General

Critical Stage Mandatory Inspections

Mandatory inspections of the building work must be carried out by the Principal Certifying Authority at various stages of construction in accordance with clause 162A of the *Environmental Planning & Assessment Regulation 2000*.

It is recommended that you discuss with your Principal Certifying Authority the occasions when the building work is to be inspected prior to work commencing.

Erection of Signs

The principal contractor and the Principal Certifying Authority will need to have a sign (or signs) erected and maintained on the development site that provides their name and contact telephone number (during and outside work hours for the principal contractor), and stating that unauthorised entry to the site is prohibited. The principal contractor and Principal Certifying Authority can have separate signs or they can both use one sign if they choose.

A maximum penalty of 10 penalty units applies for failure to erect and maintain sign(s) detailing principal contractor and Principal Certifying Authority identification.

Disability Discrimination

The *Disability (Access to Premises-Buildings) Standards 2010* impose obligations on persons relating to disability discrimination. This consent does not relieve the applicant, Principal or other Principal Certifying Authority, or any other person with regard to their obligations to ensure compliance with this legislation.

WorkCover Authority

The requirements of WorkCover Authority must be satisfied at all times.

Obstacle Height Limitation – Airport

There are height limitations relating to the operation of the airport for developments/activities/construction that may involve cranes, plant or machinery in the Shellharbour Local Government Area. Further details can be obtained from Council concerning the obstacle height limitations.

Failure to Comply with Consent

Failure to comply with any of the conditions of consent may result in a Penalty Infringement Notice being issued against the owner/applicant/builder. Substantially greater penalties may be imposed by the Court for non compliance.

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Lapsing of Development Consent

In accordance with section 95 of the *Environmental Planning & Assessment Act 1979*, the development approval lapses five years after the approval date unless building, engineering or construction work relating to the building has physically commenced.

Right to Appeal

If you are dissatisfied with this decision, section 97 of the *Environmental Planning & Assessment Act 1979* gives you the right to appeal to the Land & Environment Court within six months after the date on which you receive this notice.

Review of Determination

If you are dissatisfied with this decision, section 82A of the *Environmental Planning & Assessment Act 1979* provides that you may request Council to review its determination. The request cannot be made after the time limit for making of an appeal under section 97 expires.

To Vary Development Consent

The plans and/or conditions of this consent are binding and may only be varied upon **application** to Council under section 96 of the *Environmental Planning & Assessment Act 1979*. The appropriate fee shall accompany the application and no action shall be taken on the requested variation **unless and until** the **written** authorisation of Council is received by way of an amended consent.

BASIX

Please note that the requirement for lodging a modification of development consent under section 96 of the *Environmental Planning & Assessment Act 1979* may result in the requirement for a revised BASIX certificate to be submitted for assessment.

Prescribed Payment System Tax Obligations

You may have a taxation obligation under the Prescribed Payment System. For more information, contact the Australian Taxation Office on telephone 132866.

Dial Before You Dig

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets, please contact Dial Before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (this is the law in New South Wales). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

Telecommunications Act 1997 (Commonwealth)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the *Criminal Code Act 1995 (Cth)* and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact Telstra's Network Integrity Team on 1800810443.

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Development within Vicinity of a High Pressure Gas Main

Contact Dial Before You Dig on 1100 or www.dialbeforeyoudig.com.au. Proposed works in the vicinity of any high pressure gas main must be directed to:

Jemena Asset Management Pty Ltd
PO Box 6507
SILVERWATER NSW 2128

Attention: Land Services Department

END OF NOTICE