



## NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION

*Issued under the Environmental Planning and Assessment Act 1979 Section 4.18*

Being the applicant of Development Application No. DA0610/2019 (Shell Cove Hotel) for consent to the following development:

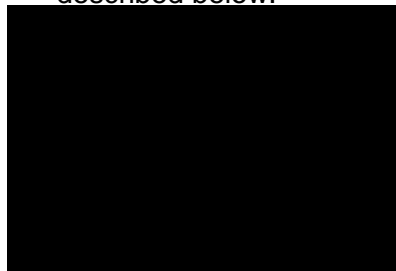
**11 STOREY MIXED USE DEVELOPMENT INCLUDING HOTEL, SERVICED APARTMENT, RESIDENTIAL APARTMENTS AND BASEMENT PARKING**

**LOT 4021 DP1254658 (FORMALLY LOT 4008 DP1219051)**

**10 WATERFRONT PARADE, SHELL COVE (PRECINCT D)**

**Determination date of consent:** 21 May 2021

In accordance with section 4.16 of the Act the Development Application has been determined by the granting of consent by the Southern Regional Planning Panel (REF: PPSSTH0022, Shellharbour City Council REF: DA0610/2019) subject to the conditions described below.



**Manager - Planning  
City Development**

On behalf of Carey McIntyre, Chief Executive Officer

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.

## **PART A – ADMINISTRATIVE 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 2000*.

### **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.

<b>Name of Plan/Document</b>	<b>Prepared By</b>	<b>Drawing/Document No./Revision</b>	<b>Drawing/Document Date</b>
Site Context Plan	DBI Design Pty Ltd	185205 A-SD-1-101 rev. E	29.10.2020
Floor Plans	DBI Design Pty Ltd	185205 A-SD-2-200 rev. F 185205 A-SD-2-201 rev. F 185205 A-SD-2-202 rev. F 185205 A-SD-2-203 rev. F 185205 A-SD-2-204 rev. E 185205 A-SD-2-205 rev. E 185205 A-SD-2-206 rev. E 185205 A-SD-2-207 rev. E 185205 A-SD-2-208 rev. E 185205 A-SD-2-209 rev. E 185205 A-SD-2-210 rev. E 185205 A-SD-2-211 rev. E	29.10.2020
Roof Plan	DBI Design Pty Ltd	185205 A-SD-2-212 rev. H	11.11.2020
Elevation Plans	DBI Design Pty Ltd	185205 A-SD-3-251 rev. G 185205 A-SD-3-252 rev. G 185205 A-SD-3-253 rev. G 185205 A-SD-3-254 rev. G	11.11.2020
Section Plans	DBI Design Pty Ltd	185205 A-SD-4-101 rev. E 185205 A-SD-4-102 rev. E 185205 A-SD-4-103 rev. E 185205 A-SD-4-104 rev. E 185205 A-SD-4-105 rev. E 185205 A-SD-4-106 rev. E 185205 A-SD-4-107 rev. E	29.10.2019
BASIX*	IGS	Certificate No. 1054657M	30.10.2019
Waste Management Plan - Construction	Momentum Projects	145 report 1/Rev. 1	23.10.2019

**Development Application No. DA0610/2019  
Lot 4021 DP1254658 (Formally Lot 4008 DP1219051) 10 Waterfront Parade, Shell Cove (Precinct D)**

Name of Plan/Document	Prepared By	Drawing/Document No./Revision	Drawing/Document Date
Waste Management Plan - Operation	Elephants Foot	S0368 rev. F	7.10.2020
Concept Landscape Plan	DBI Design Pty Ltd	DBI-DAN-DA 13 issue E DBI-DAN-DA 14 issue E DBI-DAN-DA 15 issue E DBI-DAN-DA 16 issue E DBI-DAN-DA 17 issue E DBI-DAN-DA 18 issue E DBI-DAN-DA 20 issue E DBI-DAN-DA 21 issue E DBI-DAN-DA 23 issue E DBI-DAN-DA 24 issue E DBI-DAN-DA 26 issue E DBI-DAN-DA 27 issue E DBI-DAN-DA 30 issue E DBI-DAN-DA 31 issue E DBI-DAN-DA 32 issue E DBI-DAN-DA 33 issue E DBI-DAN-DA 34 issue E DBI-DAN-DA 36 issue E DBI-DAN-DA 37 issue E DBI-DAN-DA 38 issue E DBI-DAN-DA 39 issue E DBI-DAN-DA 40 issue E DBI-DAN-DA 42 issue E DBI-DAN-DA 43 issue E DBI-DAN-DA 44 issue E DBI-DAN-DA 45 issue E DBI-DAN-DA 46 issue E DBI-DAN-DA 47 issue E DBI-DAN-DA 48 issue E DBI-DAN-DA 49 issue E	06.02.2020
Colour/Material Schedule	DBI Design PTY Ltd	18205 issue A	26.10.2020
Civil Design Plan	WSP	PS122216 sheet 1-4	22.10.2020
Acid Sulphate Soil Management Plan	Douglas Partners	78599.57 R.001.Rev0	9.10.2020
Pedestrian Wind Environment Statement	Wind Tech	WF764-01F02(Rev0)-WS Report	13.10.2020
Noise Impact Assessment	IGS	19082_231019_Noise Impact Assessment_R1	14.05.2020
Utility Infrastructure Report	Arcadis	Final Issue rev. 02	29.10.2019
Geotech Report	Douglas Partners	78599.32	08.2018
Stormwater and Water Cycle Management Plan	Arcadis	10023125-02B	28.10.2019

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

#### **4. Natural Resources Access Regulator**

The development must comply with the advice and general terms of approval of the Department of Primary Industries - Water, as contained in their letter dated 2.03.2020, consisting of three pages, and which forms part of this Notice of Determination. The advice and General Terms of Approval are detailed in Part H of this consent.

## 5. Compliance with Notations on Drawings

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

## 6. Address

Addressing will be as follows;

DESCRIPTION	STREET NUMBER	STREET NAME	LOCALITY
Primary frontage indicated by 'drop off zone' on the DA plans. Note, the entire development will have this primary address, hotel, apartments and residential units	10	Waterfront Parade	Shell Cove

- a. Primary address (as allocated in table above) shall be included on the Construction Certificate plans.
- b. The finished building shall have effective visible identification of the primary address, with number signage displayed prominently, oriented to the correct road and on contrasting background.
- c. Ensure unique unit/room identifiers are noted on Construction Certificate plans for each hotel, apartment and residential unit.
- d. Prior to issuing of Construction Certificate, contact GIS department to obtain unit sub-address numbers for each commercial and residential unit.
- e. For the application of 'hotel-style addressing', the level referred on the plans as 'Level 1 (Ground)' will be called 'Ground', with 'Level 2' being 'Level 1' and so forth for each subsequent level.

## PART B - PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

### 7. Building Plan Approval - Sydney Water

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

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

Works must not be commenced until the appropriate electronic approval has been issued by Sydney Water Tap In. .

### 8. Surrounding Roads and Drainage

Prior to the issue of a Construction Certificate, all roads and drainage surrounding the site (as included in DA0118/2017) must be completed to the satisfaction of the Principal Certifier.

### 9. Development Assessment - SEPP 65 Design Verification Statement

A certifying authority must not issue a construction certificate for 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 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 Flat Development

<http://www.legislation.nsw.gov.au/xref/inforce/?xref=Type%3DDepr%20AND%20Year%3D2002%20AND%20No%3D530&nohits=y>.

## 10. Acoustic Requirements

Prior to the issue of a Construction Certificate, plans detailing compliance with the following must be submitted for approval to the Principal Certifier:

- a. Internal noise levels as prescribed in Table 3 of 'Shell Cove Hotel Development - Noise Impact Assessment'. Rev 1 by Integrated Group Services (14/05/2020) are met.
- b. The recommendations of chapter 6.1, 6.2, 6.3 and 6.4 of the 'Shell Cove Hotel Development - Noise Impact Assessment'. Rev 1 by Integrated Group Services (14/05/2020).
- c. Details of required mechanical services equipment and associated acoustic treatment to ensure noise levels at surrounding receivers meet the relevant noise emission criteria detailed of the 'Shell Cove Hotel Development - Noise Impact Assessment'. Rev 1 by Integrated Group Services (14/05/2020).
- d. In the design of internal public areas as detailed in chapter 7.5 the 'Shell Cove Hotel Development - Noise Impact Assessment'. Rev 1 by Integrated Group Services (14/05/2020) (function room, restaurant areas, toilets) details of proposed finishes must be approved by an acoustic engineer to achieve the prescribed reverberation times. As noted in table 7 of the report, the function room must be designed with guidance from an acoustic consultant to achieve the desired internal volume and intended use of the space with finishes ensuring an appropriate reverberation time.
- e. Detail design and operational plan of the proposed restaurant is required together with a detailed noise impact assessment of the tenancy is required to be undertaken. This must comply with the relevant Licensed Premises requirements. These details need to ensure that the noise emissions criteria from the operation of the restaurant and external areas as listed in 'Shell Cove Hotel Development - Noise Impact Assessment'. Rev 1 by Integrated Group Services (14/05/2020) are achieved.
- f. Details of how the party walls exceed the minimum sound impact ratings for walls between apartment 1 and 2 on each residential level and between the Communal Open Space and apartment 7 on level 11.

## 11. Construction Environmental Management Plan (CEMP)

A CEMP must be submitted for approval to the Principal Certifier prior to the issue of the Construction Certificate including but not limited to:

- a. Recommendations included from Elephants Foot Recycling Solutions (2019), 'Shellcove Harbour Hotel - Operational Waste Management Plan',
- b. Measures are required in the CEMP to minimise the impact of construction noise according to the EPA Interim Construction Noise Guideline,
- c. Dust minimisation strategies during construction are to be outlined in the CEMP,
- d. Sediment and erosion controls are required in accordance with Landcom bluebook,
- e. Unexpected finds protocol to be included in the CEMP,

- f. Stop work protocol to be included in the CEMP for any potential heritage items found during excavation or other works,
- g. A procedure is required in the CEMP to minimise risk to native fauna during vegetation removal and earth works,
- h. Fuels and chemicals must be stored safely onsite, in a site shed, work vehicle or within a bunded area. Refuelling and mixing chemicals must be conducted in designated bunded area/s. Emergency protocols must be in place and implemented in the event of a fuel or chemical spill. Spill kits must be maintained and stored in designated areas. Waste chemical and paint cleaning drums must be disposed of by accredited waste contractors, and
- i. Recommendations from Douglas Partners (Oct 2020) 'Preliminary Acid Sulfate Soil Management Plan. Proposed Hotel Lot 4008 DP1219051 Cove Boulevard, Shell Cove.' Rev 0 are to be implemented in the CEMP.

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

Prior to the release of Construction Certificate, a Construction Traffic Management Plan (CTMP) is required, detailing vehicle routes, number of trucks, access arrangements, impact on pedestrians and traffic control must be submitted to and approved by Shellharbour City Councils Traffic Committee.

The use of the public vehicle parking area along Waterfront Promenade for construction workers vehicles is not supported.

The use of Waterfront Promenade for the loading & unloading of Trucks or other vehicles during excavation and construction of the building is not supported.

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.

## **13. Amended Waste Management Plan**

Prior to the issue of a Construction Certificate, an amended Operational Waste Management Plan must be submitted for approval to the Principal Certifier. Council recommend use of 1100 litre bins for residential landfill waste which is more suitable for a fortnightly collection.

## **14. Allocation of car parking and storage areas**

A plan showing the allocation of each car space and storage area to each individual unit in accordance with the conditions of the development consent shall be prepared. This plan shall accompany the application for the Construction Certificate.

## **15. Shoring and Adequacy of Adjoining Land**

The person having the benefit of the development consent must, at the person's own expense:

- a. protect and support the adjoining land/premises/infrastructure from possible damage from the excavation
- b. where necessary, provide support 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.

## **16. Disability Access Audit**

Prior to the issue of a Construction Certificate a Disability Access Audit must be carried out by an accredited access auditor. The recommendations from the audit are to be detailed on the plans and provided to the Principal Certifier.

## **17. Crime Prevention Through Environmental Design**

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

- a. use sensor lights to encourage user safety and illuminate potential offenders after dark,
- b. incorporate additional lighting below awnings to adequately illuminate footpath areas,
- c. illuminate possible concealment and entrapment areas particularly in car parks,
- d. lighting strategies that enable users to identify a face from within 15 metres to assist with personal safety,
- e. light access routes for user safety and to encourage surveillance,
- f. the development is to ensure appropriate security and locking mechanisms on all entry/exit points including main doors, roller doors and fire escapes,
- g. 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.
- h. 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.

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.

Full details concerning the above security arrangements for the site must be provided on plan and/or written submission with the Construction Certificate and is to be approved by the Principal Certifier.

## **18. Food Premises - Plans & Specifications**

Prior to the issue of a Construction Certificate details of the construction and fit out of food premises (including any store rooms, garbage rooms) must be submitted to the Principal Certifier.

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.

## **19. Hairdressing, Skin Penetration & Beauty Premises -Plans & Specifications**

To ensure that adequate provision is made for the cleanliness, hygiene and maintenance of all hairdressing, beauty and skin penetration salons, all work associated with the fit out shall be designed and carried out in accordance with the requirements of:

- a. The Local Government (Orders) Regulation 1999 (as amended),
- b. The Building Code of Australia (as amended),
- c. Public Health Act 2010 (as amended),
- d. Public Health Regulation 2012 (as amended),
- e. NSW Health Department Guidelines on Skin Penetration 2000 (as amended),
- f. NSW Health Department Skin Penetration - Code of Best Practice (as amended),
- g. Council DCP No. 1 and 2 (as amended), and
- h. AS4875:2006 - Office-based health care facilities - Reprocessing of reusable medical and surgical instruments and equipment, and maintenance of the associated environment (as amended)

Detailed plans and specifications for the construction of the premises must be submitted with the application for the Construction Certificate.

## **20. Food Premises - Waste Facilities**

Areas within the Back of House area must be provided for the garbage bins that is:

- a. provided with a hose tap connected to the water supply;
- b. paved with impervious floor materials;
- c. coved at the intersection of the floor and the walls;
- d. graded and drained to a waste disposal system in accordance with the requirements of the relevant regulatory authority (Sydney Water).

Detailed plans of these areas must be provided to the Principal Certifier for approval prior to issue of a Construction Certificate.

## **21. Car Washing Facility**

Prior to the issue of a Construction Certificate plans must be submitted to the Principal Certifier for approval detailing the provision of one resident visitor space that is equipped for the washing of cars for the residents of the development.

The space must be suitably signed, be provided with a water tap and waste water drainage and be paved with a surface that allows some infiltration of water.

## **22. Operational Noise Management Plan – food and drinks premises**

An operational Noise Management Plan is required to be prepared for approval by Council prior to the issue of a Construction Certificate. The plan must ensure the operation of the food and drink facilities meets the noise criteria detailed in the Noise Impact Assessment.

The management plan must reflect the recommendations detailed in Noise Impact Assessment unless it is otherwise demonstrated that the noise criteria can be met.

## **23. Flooding Residential Development**

The Flood Planning Level (FPL) (1% AEP + 500mm Freeboard) for this site is RL 5.3m AHD, The 1% Annual Exceedance Probability (AEP) for this site is RL 4.8m AHD,



The Probable Maximum Flood (PMF) Level for this site is shown in Figure 3.3 of Shell Cove Town Centre Hotel (Precinct D) Flood Assessment (see attachment).

The development shall comply with the following restrictions:

- a. Habitable floor levels shall be equal to or greater than the FPL,
- b. Basement Car parking
  - i. must be protected from inundation to levels resulting from either the 1% AEP flood plus freeboard of 0.5 m or the PMF whichever is greater
  - ii. must have reliable access for pedestrians from the basement in the PMF event
  - iii. All openings such as vehicular and pedestrian entry points, ventilation grates etc must all be located above the 1% AEP flood plus freeboard of 0.5 m or the PMF whichever is greater.
- c. All structures to have flood compatible components up to and including the FPL in accordance with Appendix 9 of Shellharbour City Councils Development Control Plan and,
- d. An IEAust NER Structural Engineer's certifying that structures are designed to withstand forces of floodwaters, debris and buoyancy up to and including the PMF Level is to be submitted with the Construction Certificate Application.

#### **24. Car Parking Spaces - Dimensions**

All disabled parking spaces are to be in accordance with Australian Standard 2890.6-2009 - Parking facilities, Part 6: Off-street parking for people with disabilities (or subsequent amendments).

#### **25. Kitchen Exhaust Design**

The kitchen exhaust and any mechanical ventilation must discharge through the roof of the building using suitable risers and voids. 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. Detailed plans showing the location, ducting, pipework of the proposed exhaust system, manufacturers details of the proposed exhaust system and documentation verifying the proposed exhaust system will comply with AS 1668.2 - Part 2 (Ventilation Design for Indoor Air Contaminant Control) must be provided to the Principal Certifying Authority prior to the issue of the Construction Certificate.

#### **26. Sydney Water Trade Waste Agreement**

Prior to the issue of a Construction Certificate being issued, written approval from Sydney Water must be provided to the Principal Certifier that indicates that a trade waste agreement has been entered into for the grease trap that will be utilised for the food business operations.

#### **27. Landscape Plan**

Prior to the issue of a Construction Certificate a landscape plan prepared by a Landscape Architect must be submitted to and approved by the Principal Certifier.

The landscape plan must be prepared in accordance with the approved Concept landscape plans drawn by DBI Design Pty Ltd reference DBI-DAN-DA 13-49 issue E dated 06.02.2020 and must include the following amendments:

- a. The use of the proposed plant species *Pennisetum alopecuroides* 'Purple Lea' is to be omitted. The species *Pennisetum alopecuroides* and cultivars are listed as an environmental weed within the Shellharbour LGA.
- b. The addition of the plant species *Livistona australis* is to be incorporated into the proposed landscape. This palm species is endemic to the Shellharbour LGA and will create a feature within the landscape and is an excellent performer in coastal conditions.

## **28. Section 7.11 Development Contributions**

A contribution of \$441,901.97, 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 9th Review 14 August 2019 in the following manner:

- Residential contribution - Precinct 2 - Shellharbour - \$ 473,052.72
- Less Credit for Passive Open Space Embellishment - City East - (\$33,041.82)
- Non-residential contribution - \$ 1,891.07

In accordance with the Environmental Planning and Assessment (Local Infrastructure Contributions - Timing of Payments) Direction 2020 this contribution must be paid prior to the issue of the first Occupation Certificate for a building to which this consent relates unless the Construction Certificate for the development is issued after 25 September 2022, in which case the contribution is payable prior to the issue of the Construction Certificate.

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 at the date of payment. 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)

## **29. Long Service Levy**

The Long Service Levy must be paid prior to the issue of the Construction Certificate for work exceeding a value of \$25,000.00.

**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.

## **30. Retaining Wall Structural Engineer**

Where a retaining wall exceeds 600mm in height, the wall must be designed by a practising structural engineer and a Construction Certificate must be obtained prior to the commencement of work on the retaining wall.

All retaining walls must be located wholly within the property, including footings and agricultural drainage lines. Construction of retaining walls or associated drainage work along common boundaries must not compromise the structural integrity of any existing structures.

### 31. Car Parking Management Plan

Prior to issue of a Construction Certificate a Car Parking Management Plan is required to be submitted to the Principal Certifier for approval. The Plan must include, but is not restricted to, the following:

- a. To restrict general public access at the street entrance to the basement parking area;
  - i.details of the provision of physical separation (such as boom gates or roller doors)
  - ii.details of the electronic management system proposed to manage access for residential tenants, residential visitors, staff and other bona fide visitors to the site
  - iii.details demonstrating how a vehicle that is restricted is able to safely turn around and exit (based on a B99 vehicle).
- b. To restrict staff and visitor access to residential parking areas within the basement car park;
  - i.details of the internal physical separation (such as boom gates or roller doors) for the 63 residential parking spaces
  - ii.details of the electronic management system proposed to manage access for residential tenants
  - iii.details demonstrating how a vehicle that is restricted is able to safely turn around and exit (based on a B99 vehicle).
- c. Details of the processes proposed to manage parking allocation of the visitor and staff car spaces;
  - i.that as a minimum guarantees the ability to service a minimum of 21 residential visitor car spaces at all times.
  - ii.that maximises car park utilisation and minimises on-street parking
  - iii.that does not provide visitors with access when the visitor parking allocation is full.
- d. The location and layout of any controls and associated devices in the car park must be designed in accordance with AS 1428 and AS/NZS 2890.1 - 2004 Parking facilities Part 1: Off-street car parking (or subsequent amendments) and with regard to queuing and access to nearby car parking spaces.

### 32. 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 plan no. C001 prepared by WSP on 23/10/2020,
- b. drain to the council pit,
- c. indicate the method of disposal of all stormwater and must include existing ground levels, finished surface levels on all paved areas, estimated flow rates, invert levels and 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.

### **33. 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.

### **34. Level four Basement Parking**

Prior to issue of a Construction Certificate plans for basement level four are to be submitted to Council for approval. Plans are to include a separate lift and lift lobby for hotel/serviced apartment guests and indicate the intended use of the two coloured areas on opposite sites of the access way immediately to the south of the hotel lift pit.

## **PART C - PRIOR TO COMMENCEMENT OF WORKS**

### **35. 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.

### **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 1993*. 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. details 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.

### **37. Dilapidation Report**

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

### **38. 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.

## **PART D - DURING CONSTRUCTION WORKS**

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

The external treatment/appearance of the development must be in accordance with the approved Materials and Finishes Plan drawn by DBI Architecture reference 185205 issue F Development Application Report page 84 dated 31.10.2019 unless approved in writing by Council.

### **40. Contamination - Unexpected Finds Contingency**

Should any contamination or suspect material be encountered during site preparation, earth works, construction or any other stage of the development, then works must cease immediately and a suitably qualified consultant engaged to conduct a thorough contamination assessment. In the event that contamination remediation is required, all works must cease and the Council must be notified immediately. The contamination assessment must be submitted to Council for Approval.

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

### **41. Plant Height**

All plant used during construction shall be below 120m AHD unless approved by Airport Manager.

Fees and Charges may apply where flight operations are affected by works.

### **42. Construction Environmental Management Plan and Acid Sulphate Soils Management Plan on site**

The Construction Environmental Management Plan (CEMP) and Acid Sulphate Soils Management Plan (ASSMP) must be followed at all times during construction. All contractors are to be inducted with the CEMP and ASSMP (if relevant) prior to entering the construction site.

### **43. Flooding Survey Certification**

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

#### **44. Hours of Work During Building Work**

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

- 7am to 5pm Mondays to Fridays
- 8am to 5pm Saturdays.

Work must not be carried out on Sundays or public holidays.

#### **45. 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.

#### **46. Storage of Materials**

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

#### **47. Driveway and/or Layback - From Kerb to Property Boundary**

A standard residential 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 maximum width of 10m,
- c. not interfere with the existing public utility infrastructure,
- d. be located 500mm clear of all drainage structures and 2m from the 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.

#### **48. Survey Certification**

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

The report must certify all of the following:

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

Australian Height Datum must be used.

#### **49. Connection to Council Pit and/or Pipe**

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

**Development Application No. DA0610/2019  
Lot 4021 DP1254658 (Formally Lot 4008 DP1219051) 10 Waterfront Parade, Shell Cove (Precinct D)**

---

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

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

The Certifying Authority must arrange for a satisfactory inspection by Shellharbour City Council prior to backfilling. At least one working day's notice is required for the inspection and is to be arranged through Council's Customer Services.

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

## **PART E - PRIOR TO OCCUPATION**

### **50. SEPP 65 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 Part 2 of -State Environmental Planning Policy No 65Design Quality of Residential Flat Development

<http://www.legislation.nsw.gov.au/xref/inforce/?xref=Type%3DDepi%20AND%20Year%3D2002%20AND%20No%3D530&nohits=y>

### **51. 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.

## **52. Operational Waste Management Plan**

Prior to issue of an Occupation Certificate details of the provision of waste management in accordance with the amended waste management plan required by condition 14 must be provided for approval to the Principal Certifier.

## **53. Relevant Leases, Licenses and Easements**

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

## **54. Car Parking Management Plan**

Prior to the issue of an Occupation Certificate evidence is to be submitted to the Principal Certifier confirming that the requirements of the Car Parking Management Plan as required by condition 31 has been implemented and are ready for use. Evidence must be provided by a suitably qualified person relating to traffic and parking management.

## **55. Commercial Operational Plan of Management**

Prior to issue of an Occupation Certificate the proponent shall prepare and submit to Manager Planning at Shellharbour City Council for approval, a Commercial Operational Management Plan which addresses all operational and management procedures to be employed for the Hotel and Serviced Apartments/Food and Drink Premises/Retail unit and Function Centre.

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

- a. management of deliveries, all loading and unloading operations associated with servicing the site, including glass collection, must be carried out within the confines of the site, at all times and must not obstruct other properties/units or the public way,
- b. maintenance regime – including but not restricted to
  - i. removal of graffiti - the operator of the site must be responsible for the removal of all graffiti from within the site within 48 hours of its application,
  - ii. Management of litter on and around the site.
- c. operating hours for communal facilities on level 5, and level 2.
- d. measures to manage the communal open space on level 5 for safe and equitable use by residents, including defining and managing alcohol and smoke free areas and implementing the recommendations contained in the Social Impact Assessment written by Ethos Urban dated 9 October 2020.
- e. building manager available to move waste bins from basement to ground floor waste collection area when required.
- f. Workplace Travel Plan as required by condition 58,
- g. Removal of Alcohol - Patrons of the food and drink premises must be prevented from removing glasses, opened cans, bottles or alcohol from the premises,
- h. Lockers must be provided for employees to lock away their valuables during the time they are working,
- i. Access and security - access control should be set in place to exclude unauthorised access to restricted areas. Signage should be placed in areas that are restricted to employees only,
- j. Delivery times are to be restricted to those included in condition 79 of this consent,
- k. No sale of alcohol permitted for off premises consumption,
- l. Operational Noise Management Plan as required by condition 22



- m. Operating hours are to be restricted as required by condition 79
- n. The necessary operational and maintenance requirements of all landscaped areas. Such requirements must ensure that the landscaping is maintained in perpetuity and in accordance with the Landscaping Plans by DBI Design Pty Ltd.
- o. Management plan for private buses/coaches to the site to ensure on street parking is not compromised and/or public roads blocked.
- p. All luggage for hotel/serviced apartment guests is to be delivered and collected from the hotel lobby and not loaded and unloaded in the basement car park.

#### **56. Residential Operational Plan of Management**

Prior to the issue of an Occupation Certificate an Operational Plan of Management must be submitted for approval to Council which addresses all operational and management procedures to be employed for the residential including the following (but not limited to):

- a. The necessary operational and maintenance requirements of all landscaped areas. Such requirements must ensure that the landscaping is maintained in perpetuity and in accordance with the Landscaping Plans by DBI Design Pty Ltd.
- c. Operating hours for pool/communal open space on level 11 that is consistent with any noise attenuation measures,
- d. Access and security - access control should be set in place to exclude unauthorised access to restricted areas and management surveillance of the residential Communal Open Space on levels 10 and 11,
- e. 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
- f. Providing a suitable process for the resolution of disputes and complaints.
- h. Cleaning and maintenance schedule of stormwater treatment measures (Enviropod and Stormfilters as described and indicated in WSP (22/10/2020) Technical letter on stormwater design and updated stormwater plans. Rev 1).
- i. Operational procedures for incoming and exiting permanent residents to minimise any conflict with other uses of the site.

#### **57. Workplace Travel Plan**

Prior to the issue of an Occupation Certificate a Workplace Travel Plan shall be developed and submitted to the Private Certifier for assessment and approval in order to encourage staff to make use of public transport, cycling, walking and car sharing for work related journeys and reduce car based travel demand by staff.

The Workplace Travel Plan shall be generally in accordance with NSW Premier's Council for Active Living's "Workplace Travel Plan Guidelines - Final Report (April 2010)". The plan shall include, but not be limited to, the following:

- a. Encourage staff to cycle and/or walk to the workplace;
- b. Encourage staff to use public transport or the shuttle bus service;
- c. Adopt a car sharing and/or car pool scheme;
- d. Provide priority parking for staff who car pool;
- e. Provide bike storage areas and end-of-trip facilities.

#### **58. Acoustic Assessment**

Prior to the issue of an Occupation Certificate evidence from a qualified acoustic consultant must be submitted to the Principal Certifier to confirm that the acoustic requirements set forth in 'Shell Cove Hotel Development - Noise Impact Assessment'. Rev 1 by Integrated Group Services (14 May 2020) have been achieved, specifically:

- a. Acoustic constructions of the building's façade, including external windows have been constructed as to achieve the internal noise levels compliant with the criteria outlined in the report,
- b. Operational noise emission levels of the building's mechanical services equipment meet the relevant noise criteria outline din the report,
- c. The noise emissions criteria for the restaurant and external areas, such as the swimming pool.

If the acoustic requirements are not achieved relevant measures are to be taken to mitigate this impact.

#### **59. Flood Risk Signage**

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

#### **60. Amelioration of Wind Effects**

Prior to the issue of an Occupation Certificate, evidence is to be provided to the Principal Certifier from a suitably qualified person, to confirm that the recommendations as detailed in the approved Pedestrian Wind Environment Statement by Windtech, reference WF764-01F02(REV0)- WS REPORT dated 13 October 2020 have been undertaken as part of the development.

#### **61. Car Washing Facility**

Prior to the issue of an Occupation Certificate evidence must be provided to the Principal Certifier detailing the provision of a car washing facility as required by condition 21 of this consent.

#### **62. Health -Beauty Salons - Inspection & Registration**

Prior to the issue of any Occupation Certificate or occupation or use of any beauty salon premises:

- a. an inspection of the fit out of the beauty salon premises must be arranged with Councils Environmental Health Officer;
- b. a satisfactory final inspection must have been undertaken by Councils Environmental Health Officer; and
- c. the beauty salon premises must be registered with Council.

#### **63. Skin Penetration - Inspection & Registration**

Prior to the issue of any Occupation Certificate or occupation or use of any food premises:

- a. A satisfactory final inspection must have been undertaken by the Principal Certifying Authority certifying that the skin penetration premises complies with the:
  - i. The Local Government (Orders) Regulation 1999 (as amended),
  - ii. The Building Code of Australia (as amended),
  - iii. Public Health Act 2010 (as amended),
  - iv. Public Health Regulation 2012 (as amended),

- v. NSW Health Department Guidelines on Skin Penetration 2000 (as amended),
- vi. NSW Health Department Skin Penetration - Code of Best Practice (as amended),
- vii. Council DCP No. 1 and 2 (as amended), and
- viii. AS4875:2006 - Office-based health care facilities - Reprocessing of reusable medical and surgical instruments and equipment, and maintenance of the associated environment (as amended)

- b. The proprietor must submit to Shellharbour City Council a 'Health Premises Registration Form'. The form can be found on Council's website by visiting:

[https://cdn.shellharbour.nsw.gov.au/sites/default/files/PDF\\_Forms/Health\\_Premises](https://cdn.shellharbour.nsw.gov.au/sites/default/files/PDF_Forms/Health_Premises)

#### **64. Food Premises - Inspection & Registration**

Prior to the issue of any Occupation Certificate or 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 garbage areas complies with the:

- i. Food Act 2003, Food Regulation 2010, Food Standards Code as published by Food Standards Australia (as amended);
- ii. New Zealand and Australian Standard AS4674:2004 Design, Construction and fit out of food premises (as amended);
- iii. 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: [https://www.shellharbour.nsw.gov.au/sites/default/files/PDF\\_Forms/foodbusinessregistrationform.pdf](https://www.shellharbour.nsw.gov.au/sites/default/files/PDF_Forms/foodbusinessregistrationform.pdf)

#### **65. Public Swimming Pools & Spas - Operation and Maintenance**

Prior to the issue of any Occupation Certificate or occupation or use of any public swimming pool/spa:

- a. A satisfactory final inspection must have been undertaken by the Principal Certifying Authority certifying that the public swimming pool/spa complies with the:

- Public Health Act 2010 (as amended),
- Public Health Regulation 2012 (as amended) and
- NSW Health Department Public Swimming Pool and Spa Pool Guidelines 1996 (as amended).

- b. the building owner must submit to Shellharbour City Council a 'Health Premises Registration Form' for the public swimming pool/spa. The form can be found on Council's website by visiting:

[https://cdn.shellharbour.nsw.gov.au/sites/default/files/PDF\\_Forms/Health\\_Premises\\_Registration\\_Form.pdf](https://cdn.shellharbour.nsw.gov.au/sites/default/files/PDF_Forms/Health_Premises_Registration_Form.pdf)

#### **66. Restrictions on Title**

Prior to the issue of an occupation certificate a restriction on Use of Land and Positive Covenant(s) shall be imposed on the site. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land Registry Services:

- a. Positive Covenant that visitor stays at the hotel accommodation and/or serviced apartments does not include any period of 21 consecutive days or more than a total period of 42 days in any 12 month period,
- b. Communal Open Space provided on Level 11 is for the exclusive use of residents and their visitors only and not available to hotel guests.

#### **67. Intercom for Parking Levels**

The basement parking levels 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.

#### **68. Occupation Certificate**

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

#### **69. BASIX**

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

#### **70. Repairs to Public Infrastructure**

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

#### **71. Pool Safety**

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

#### **Note:**

- An approved resuscitation notice must be displayed.
- Gates must swing away from the pool area and must be self-closing.
- Any window that opens into the pool area must be protected in accordance with AS1926.1-2012. Council recommends that windows do not open into pool areas as any protection may obstruct egress from the building in an emergency.
- An effective fence height of 1.2m, and including the prescribed non climbable zone, must be maintained at all times.

- Boundary fences forming part of the pool fence, and including the prescribed non climbable zone, must be no less than 1800mm in height.

## **72. 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.

## **73. Verification of Waste Management**

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

## **74. 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 surfaces. Any variations to the design or species used must be authorised by Council in writing before any changes are made.

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

## **75. Sign for Visitor Parking**

A sign, legible from the street, must be permanently displayed to indicate the availability of visitor parking prior to the release of the Occupation Certificate.

## **76. Liveable Housing Design Guidelines**

Prior to the issue of an Occupation Certificate, certification from an appropriately qualified person must be provided to the Principal Certifier certifying that ten (10) of the residential apartments have been constructed to meet the performance requirements of Silver Level Liveable Housing Design Guidelines (or updated standards).

## **PART F - PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE**

Not Applicable

## **PART G - AFTER ISSUE OF OCCUPATION CERTIFICATE/DURING OCCUPATION**

### **77. Signage**

No signage is approved as part of this consent. Signage must not be erected or displayed without first gaining development consent from Council, unless carried out under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

### **78. Hours of Operation and Delivery Times**

The approved hours of operation for the publicly accessible hotel facilities shall be restricted to the following:

Monday to Sunday – 6am to Midnight.

The approved hours of operation for the Communal Open Spaces within the development shall be restricted to the following:

Monday to Sunday – 7am to 10pm.

All deliveries are restricted to the hours between 7am and 10pm Monday to Friday unless otherwise approved in writing by Council.

### **79. Swimming Pools - Resuscitation Notice**

An expired air resuscitation warning notice complying with the *Swimming Pools Act, 1992* must be affixed in a prominent position adjacent to the pool.

### **80. Heights**

No structures on site such as aerials or trees shall exceed 51 metres AHD.

### **81. Enclosure of Balconies**

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

### **82. Maximum Number of Persons Signage**

The maximum number of people (including staff and customers) in the premises shall be no more than the following at any one time;

- i. Food and Drink Premises (ground floor) - 454,
- ii. Food and Drink Premises (Level 5) - 135,
- iii. Function Centre - 550.

### **83. Prescribed Condition for Maximum Patronage Signage**

A sign must be displayed at the main entry point to the building in a prominent position stating the maximum number of persons, as specified in condition 82 of this consent, that are permitted in the building.

Note: Clause 98D of the *Environmental Planning and Assessment Regulation 2000* requires a sign specifying maximum number of persons permitted in the building to be displayed in a prominent position for the following types of premises:

- i. Entertainment Venue,
- ii. Function Centre,
- iii. Pub,
- iv. Registered Club, and
- v. Restaurant.

#### **84. Acoustic Testing**

The operator of the food and drink premises and function centre is required to undertake relevant acoustic testing to demonstrate that the noise criteria is being achieved as required by the Noise Impact Assessment.

The testing must occur during the first 12 months of the operation of the premises and based on the following;

- i. At least 5 times during the 12 month period, with two samples taken during the summer period, and,
- ii. At peak times, including Saturday mid-afternoon and evening.

Where the testing has shown non-compliances with noise criteria detailed in the Noise Impact Assessment, 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.

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.

#### **85. Copies of Consents and Management Plans**

A full and current copy of all current development consents for the operation of the premises and the approved Plan of Management must be kept on-site and made available to Police or Council Officers, or Special Investigator upon request.

The use must always be operated / managed in accordance with the Plan of Management, signed and dated by the premise's operator.

#### **86. Parking Provision**

At all times the number of private parking spaces for the mixed use development must be 337 spaces.

The following proportional mix must be complied with:

- a. Residential apartment - 63 spaces,
- b. Residential visitors - 21 spaces,
- c. Hotel guests and staff - 94 spaces,
- d. Serviced apartments - 29 spaces,
- e. Function centre guests - 65 spaces,

The residential 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.

### **87. Neighbourhood Amenity**

Signs must be placed in clearly visible positions within the premises requesting patrons upon leaving the food and drink premises and function centre to do so quickly and quietly, having regard to maintaining the amenity of the area.

The management must ensure that the behaviour of patrons entering and leaving the premises does not detrimentally affect the amenity of the neighbourhood. In this regard, the management must be responsible for the control of noise and litter generated by patrons of the premises and must ensure that patrons leave the vicinity of the premises in an orderly manner to the satisfaction of Council and the Licensing Authority.

### **88. Waste Streams**

In accordance with the Operational Waste Management Plan, the following waste streams shall be collected and disposed at a suitable licensed facility:

- a. General Waste,
- b. Paper and Cardboard,
- c. Mixed recycling (plastics, glass, steel and aluminium),
- d. Organic Waste, and
- e. Oil and grease trap service to food retailers.

### **89. On Site Loading Areas and Operation**

All loading and unloading operations associated with servicing the site must be carried out within the confines of the site with the loading dock doors closed at all times and must not obstruct other properties/units or the public way.

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.

### **90. Public Swimming Pools & Spas - Operation & Maintenance**

The operation, maintenance and disinfection of any public pool/spa is to comply with the requirements of the:

- a. Public Health Act 2010 (as amended),
- b. Public Health Regulation 2012 (as amended) and
- c. NSW Health Department Public Swimming Pool and Spa Pool Guidelines 1996 (as amended).

### **91. Air Conditioning Units to Façade**

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



## 92. Parking

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

## 93. Waste Management

Waste management must remain consistent with the requirements of the approved Operation Waste Management Plan in Condition 3.

Further to this the following waste removal requirements are to be complied with:

- 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. Garbage and recycling must be collected wholly within the site. At no time are any waste bins be presented the kerbside.
- 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 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 waste removal to be undertaken by a private contractor, unless otherwise agreed by Council in writing.
- j. Acoustic mitigation requirements as required by this development consent, including garbage chutes.

## 94. Plan of Management

The development shall be managed by the Plans of Management (POM) as required by conditions 55 and 56 in perpetuity.

## 95. Offensive Noise

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

## 96. BASIX Commitments

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

## PART H – OTHER APPROVALS

### 97. Natural Resources Access Regulator - General Terms of Approval



Contact: Natural Resources Access Regulator  
Phone: 1800 633 362  
Email: [nrar.enquiries@nrar.nsw.gov.au](mailto:nrar.enquiries@nrar.nsw.gov.au)

Our ref: IDAS1122520  
GTA113126  
Your ref: DA0610/2019  
CNR: CNR-3757, 1579166428

2/3/2020

Shellharbour City Council  
Sent via email

Attention: Development Assessment

Dear Sir/Madam

**Re: Integrated Development Referral – General Terms of Approval**  
**Dev Ref: DA0610/2019**  
**Description: Controlled Activity - Works on Waterfront land**  
**Location: COVE BOULEVARD SHELL COVE 2529**

I refer to your recent letter regarding an integrated Development Application (DA) proposed for the above location. Attached, please find Natural Resources Access Regulator's General Terms of Approval (GTA) for part of the proposed development requiring a Controlled Activity approval under the *Water Management Act 2000* (WM Act), as detailed in the subject DA.

Please note Council's statutory obligations under section 4.46 of the *Environmental Planning and Assessment Act 1979* (EPA Act) which requires consent, granted by a consent authority, to be consistent with the general terms of any approval proposed to be granted by the approval body.

If the proposed development is approved by Council, NRAR requests these GTA be included (in their entirety) in Council's development consent. Please also note NRAR requests notification:

- if any plans or documents are amended and these amendments significantly change the proposed development or result in additional works or activities (i) in the bed of any river, lake or estuary; (ii) on the banks of any river lake or estuary, (iii) on land within 40 metres of the highest bank of a river lake or estuary; or (iv) any excavation which interferes with an aquifer.

NRAR will ascertain from the notification if the amended plans require review of or variation/s to the GTA. This requirement applies even if the amendment is part of Council's proposed consent conditions and do not appear in the original documentation.

- if Council receives an application under s4.46 of the EPA Act to modify the development consent and the modifications change the proposed work or activities described in the original DA.

Development Application No. DA0610/2019  
Lot 4021 DP1254658 (Formally Lot 4008 DP1219051) 10 Waterfront Parade, Shell Cove (Precinct D)

---

- of any legal challenge to the consent.

As the proposed work or activity cannot commence before the applicant applies for and obtains an approval, NRAR recommends the following condition be included in the development consent:

**The attached GTA issued by NRAR do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to NRAR for a Controlled Activity approval after consent has been issued by Council and before the commencement of any work or activity.**

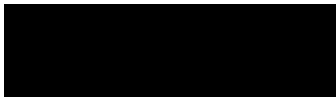
A completed application form must be submitted to NRAR together with any required plans, documents, application fee and proof of Council's development consent. Finalisation of an approval can take up to eight (8) weeks from the date the application and all required supporting documentation is received.

Application forms are available from the NRAR website at:  
<https://www.industry.nsw.gov.au/water/licensing-trade/approvals/controlled-activities>

NRAR requests that Council provide a copy of this letter to the development consent holder.

NRAR also requests a copy of the determination for this development application be provided by Council as required under section 4.47(6) the EPA Act.

Yours Sincerely



**Alison Collaros**  
Manager Licensing & Approvals  
Water Regulatory Operations  
Natural Resources Access Regulator

**Development Application No. DA0610/2019  
Lot 4021 DP1254658 (Formally Lot 4008 DP1219051) 10 Waterfront Parade, Shell Cove (Precinct D)**

---

---

<b>Reference Number:</b>	GTA113126
<b>Issue date of GTA:</b>	2/3/2020
<b>Type of Approval:</b>	Controlled Activity
<b>Location of work/activity:</b>	COVE BOULEVARD SHELL COVE 2529
<b>DA Number:</b>	DA0610/2019
<b>LGA:</b>	Shellharbour City Council

---

The GTA issued by NRAR do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to NRAR for the relevant approval after development consent has been issued by Council and before the commencement of any work or activity.

---

Condition Number	Details
------------------	---------

---

**Design of works and structures**

---

GT0009	Before commencing any proposed controlled activity on waterfront land, an application must be submitted to Natural Resources Access Regulator, and obtained, for a controlled activity approval under the <i>Water Management Act 2000</i> .
--------	--

---

**Erosion and sediment controls**

---

GT0008	The following plan(s): - Erosion and Sediment Controls Plan must be: A. prepared in accordance with <i>Managing Urban Stormwater: Soils and Construction, Volume 1 (Landcom, 2004)</i> , as amended or replaced from time to time, and B. submitted with an application for a controlled activity approval.
GT0014	A. The consent holder must ensure that any proposed materials or cleared vegetation, which may: i. obstruct water flow, or ii. wash into the water body, or iii. cause damage to river banks, are not stored on waterfront land, unless in accordance with a plan held by Natural Resources Access Regulator as part of a controlled activity approval. B. When the carrying out of the controlled activity has been completed, surplus materials must be removed from waterfront land.
GT0021	The proposed erosion and sediment control works must be inspected and maintained throughout the construction period of the controlled activity and must not be removed until the site is fully stabilised.

---

**Plans, standards and guidelines**

---

GT0002	A. This General Terms of Approval (GTA) only applies to the proposed controlled activity(s) described in the plans and associated documents relating to Development Application as provided by Council to Natural Resources Access Regulator. B. Any amendments or modifications to the proposed controlled activity(s) may render the GTA invalid. If the proposed controlled activity is amended or modified, Natural Resources Access Regulator, Parramatta Office, must be notified in writing to determine if any variations to the GTA will be required.
--------	--

---

---

GT0023	<b>Rehabilitation and maintenance</b> <i>Vegetation clearance associated with the proposed controlled activity must be limited to where the controlled activity is to be carried out, as shown on the approved plan(s).</i>
--------	--

---

**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.

**Development Application No. DA0610/2019**  
**Lot 4021 DP1254658 (Formally Lot 4008 DP1219051) 10 Waterfront Parade, Shell Cove (Precinct D)**

---

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**

#### **Food Premises Inspections**

Council's Environmental Health Officer will visit your food business to undertake regulatory health premises inspections in accordance with our responsibilities under the *Food Regulation Partnership*. The number of yearly inspections required is determined using a risk based priority classification system as outlined in the NSW Food Authority's *Priority Classification System* Guidelines. The fee for this service will be invoiced directly to the Proprietor of the business once all required financial year inspections have been completed. For information on the costs involved with food premises inspections please see Council's fees and charges document on our website.

#### **Critical Stage Mandatory Inspections**

Mandatory inspections of the building work must be carried out by the Principal Certifier 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 Certifier the occasions when the building work is to be inspected prior to work commencing.

#### **Erection of Signs**

The principal contractor and the Principal Certifier 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 Certifier 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 Certifier identification.

#### **SafeWork NSW**

The requirements of SafeWork NSW must be satisfied at all times.

#### **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.

#### **Lapsing of Development Consent**

In accordance with Part 4, Division 4.9, section 4.53 of the *Environmental Planning & Assessment Act 1979*, the development approval lapses seven 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, Part 8, Division 8.3, section 8.7 of the *Environmental Planning & Assessment Act 1979* gives you the right to appeal to the Land & Environment Court within twelve months after the date on which you receive this notice.

#### **Review of Determination**

If you are dissatisfied with this decision, Part 8, Division 8.2 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.

Division 8.2 of the *Environmental Planning & Assessment Act 1979* does not apply to:

- a. a determination to issue or refuse to issue a complying development certificate
- b. a determination in respect of designated development

**Development Application No. DA0610/2019  
Lot 4021 DP1254658 (Formally Lot 4008 DP1219051) 10 Waterfront Parade, Shell Cove (Precinct D)**

---

- c. a determination in respect of integrated development
- d. a determination made by the Council under Division 4 in respect of an application made by the Crown.

**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 4.55 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 4.55 of the *Environmental Planning & Assessment Act 1979* may result in the requirement for a revised BASIX certificate to be submitted for assessment.

**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](http://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* (Commonwealth) 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.

**Development within Vicinity of a High Pressure Gas Main**

Contact Dial Before You Dig on 1100 or [www.dialbeforeyoudig.com.au](http://www.dialbeforeyoudig.com.au) or <http://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

**Compliance with *Building Code of Australia***

The development must comply with the *Building Code of Australia* and all related standards and legislation.

**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.

**END OF NOTICE**