

[REDACTED]

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. DA0501/2019 for consent to the following development:

**CONSTRUCTION OF 116 APARTMENTS – PRECINCT B2
(RESIDENTIAL FLAT BUILDING)**

**LOT 9009 DP1254656
(FORMERLY KNOWN AS LOT 1091 DP 1254727)**

HARBOUR BOULEVARD, SHELL COVE

Determination date of consent: 29 July 2020

Note: This Approval will lapse 7 years from the date of consent.

In accordance with section 80 of the Act the Development Application has been determined by the GRANTING OF CONSENT UNDER THE SOUTHERN REGIONAL PLANNING PANEL (REF:PPSSTH-24 – SHELLHARBOUR – DA0501/2019) 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.

[REDACTED]

Manager Planning – City Development

On behalf of Carey McIntyre, General Manager

PART A – ADMINISTRATIVE CONDITIONS

1. Construction Certificate & PCA 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 Certifying Authority.

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.

Name of Plan/Document	Prepared By	Drawing/Document No./Revision	Drawing/Document Date
Site Plan	Smart Design Studio	DA001 P2	11/09/2019
Floor Plans	Smart Design Studio	Basement 2 -DA100 P22 Ground and basement 1 - DA101 P26 Level 01 - DA103 P26 Level 02 - DA104 P22 Level 03 - DA105 P21 Level 04 - DA106 P21 Level 05 - DA107 P21 Roof - DA108 P24 Adaptable Apartments type 1 - DA450 P11 Adaptable apartments type 2 - DA452 P11 Liveable Apartments Type 3 + 4 - DA453 P11	28/04/2020 28/04/2020 28/04/2020 28/04/2020 28/04/2020 28/04/2020 28/04/2020 28/04/2020 28/04/2020 28/04/2020
Elevations Plan	Smart Design Studios	Building A North and South - DA300 P11 Building A East and West - DA301 P11 Buildings B - DA302 P11 GA Sections - DA400 P13	28/04/2020 11/09/2019 11/09/2019 11/09/2019
Civil Plans	ARCADIS	C-BE-B2C2-001 - AA06310-01 C-BE-B2C2-100 - AA06310-01 C-BE-B2C2-102 - AA06310-01 C-BE-B2C2-111 - AA06310-01 C-BE-B2C2-115 - AA06310-01 C-BE-B2C2-116 - AA06310-01	05/11/2019 05/11/2019 05/11/2019 05/11/2019 05/11/2019 05/11/2019

Development Application No. DA0501/2019

Lot 9009 DP1254656 (formerly known as Lot 1091 DP 1254727) Harbour Boulevard, Shell Cove

Name of Plan/Document	Prepared By	Drawing/Document No./Revision	Drawing/Document Date
NatHERS and BASIX* assessment	Efficient Living	Certificate No. 1033392M_03	09/09/2019
Waste Management Plan	MRA Consulting Group	Version 2	29/08/2019
Landscape Plan	Fieldwork Associates	LDA-01 - issue J LDA-02 - issue J LDA-03 - issue J LDA-04 - issue J LDA-05 - issue J LDA-06 - issue J LDA-07 - issue J LDA-08 - issue J LDA-09 - issue J LDA-10 - issue J LDA-11 - issue J LDA-12 - issue J LDA-13 - issue J LDA-14 - issue J LDA-15 - issue J LDA-16 - Issue J	24/04/2020
Colour/Material Schedule	Smart Design Studio	1806 Shell Cove Materials	
Noise Impact Assessment	Acoustic logic	20190434.1/0808A/R1/WY Addendum - 20190434.6/1704A/RO/WY	08/08/2019 17/04/2020
Utility, Sewer and Water Services Strategy	ARCADIS	AA006310-PRA-B2C2 rev. 03	11/08/2019
Traffic Report	Colston Budd Rodgers & Kafes Pty Ltd	JH/1129/jj	11/09/2019
Geotechnical Site Investigation	SMEC	30012095-R09	11/12/2018
Crime Prevention Through Environmental Design Report	Ethos Urban	Final	27/09/2019
Contaminated Land Report	Douglas Partners	CL.001.REV0	7/06/2018
Acid Sulphate Soil Management Plan	SMEC	30015068 30012095-L11	04/05/2018 20/04/2020

Name of Plan/Document	Prepared By	Drawing/Document No./Revision	Drawing/Document Date
Precinct B2 and C2 Flood Assessment	Arcadis	Flood Level Maps Figure 5.2 Figure 5.3 Figure 8.1 Ref: 301015-03163	17/10/2019
Precinct B2 Apartments – Flood Assessment	Arcadis	301015-03163	14/10/2019

* 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. Compliance with Notations on Drawings

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

5. House Numbering

- a. Primary addresses shall be included on the Construction Certificate plans;
- b. The finished building shall have effective visible identification of each primary address, with number signage displayed prominently, oriented to the correct road and on contrasting background; and
- c. Prior to applying for Construction Certificate, contact GIS department to obtain unit sub-address numbers for each residential unit.

DESCRIPTION OF PRIMARY ADDRESS ACCESS POINT	STREET NUMBER	STREET NAME	LOCALITY
Lobby located at south-west of the site (e.g. access to unit A00.01)	35	Quayside Avenue	Shell Cove
Lobby located at north-west of the site (e.g. access to unit A00.03)	58	The Promontory Drive	Shell Cove
Lobby located at the north of the site (e.g. access to unit A00.06)	60	The Promontory Drive	Shell Cove
Lobby located at north-east of the site (e.g. access to unit A00.09)	62	The Promontory Drive	Shell Cove
Lobby located at the east of the site (e.g. access for to A00.13)	64	The Promontory Drive	Shell Cove
Lobby located at the south of the site (e.g. access to unit B00.01)	45	Quayside Avenue	Shell Cove

PART B - PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

6. Construction Environmental Management Plan (CEMP)

Prior to issue of a Construction Certificate a Construction Environmental Management Plan (CEMP) must be submitted to and approved by the Principal Certifying Authority, including but not limited to the following environmental safeguards:

- a. Acid Sulphate Soils may be encountered in the south east corner of the site. A process for the observation and identification, and management through neutralisation must be included in the CEMP using measures outlined in the Acid Sulfate Soil Management Plan (ASSMP) Precinct B2 & C2 Shell Cove' (2018) by SMEC (04/05/2018) and addendum 20/04/2020;
- b. Waste Management is to be undertaken in accordance with the Waste Management Plan provided;
- c. Measures are required in the CEMP to minimise the impact of construction noise according to the Environment Protection Agency Interim Construction Noise Guideline;
- d. Dust control measures;
- e. Sediment and erosion controls are required according to plans provided (Arcadis 'Erosion and Sediment Control Plan, Erosion and Sediment Control Details - Shell Cove Precinct B2 and C2 Precinct Infrastructure - Construction Certificate SCC (bulk earthworks)' (05/09/2019). Rev 2);
- f. Unexpected finds protocol relating to contamination to be included in the CEMP;
- g. Stop work protocol to be included in the CEMP for any potential heritage items found during excavation or other works;
- h. Protection of Native Fauna; and
- i. Management of Fuels and Chemicals

7. Stormwater Management and Water Quality

Prior to the issue of a Construction Certificate detailed stormwater plans must be submitted to and approved by the Principal Certifying Authority which must include the appropriate stormwater treatment devices as per correspondence from Warick Honour from Advisian (15/05/2020), and achieve the water quality targets of the site wide storm water strategy in Advisian's (formerly Worley Parsons) 'Shell Cove Boat Harbour Precinct - Stormwater Quality Management Strategy' (2009).

8. Acoustic Mitigation

Acoustic mitigation measures recommended within section 5.3 of Acoustic Logic 'Shell Cove, B2 Apartments - Noise Impact Assessment' (2019) must be implemented and detailed on the Construction Plans submitted to the Principal Certifying Authority prior to issue of a Construction Certificate. This detail must include confirmation that the minimum acoustic performance of the building elements is to comply with the National Construction Code (NCC) +5 (5 points better than the minimum requirements of the NCC).

The specifications of noise management treatments proposed for both building materials and services equipment is required. As recommended by Acoustic Logic (2019 and 2020) the design of noise management treatments must be required to address:

- a. Noise emitted by the car park entrance driveway, roller door and car park turn table and its impact in particular on residents and bedrooms directly adjacent.

9. Crime Prevention Through Environmental Design

Prior to the issue of a Construction Certificate plans must be submitted to the Principal Certifying Authority detailing how the applicant has implemented all the recommendations in section 6.1 of Ethos Urban's Crime Prevention Through Environmental Design report version – final, dated 27/09/2019.

10. SEPP 65 Design Verification Statement

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.

11. Charging Points

Prior to the issue of a Construction Certificate plans detailing the future provision of appropriate electrical infrastructure and capacity to allow all apartments to charge an electric vehicle at any one time in their own car space must be submitted to and approved by the Principal Certifying Authority. Such infrastructure should:

- a. Allow for a minimum of 16A single phase charging per Eligible Lot Owner;
- b. Be easily accessible for any Lot Owner to run a dedicated circuit to their own car space for the purposes of EV charging;
- c. Be monitored by the Owners Corporation or a 3rd party on behalf of the Owners Corporation if required;
- d. Include capacity for a billing system to account for the amount of electricity used if required; and
- e. Measure electricity used by using utility grade, National Metering Identifier (NMI) registered electricity meters.

12. Initial Geotechnical Report

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

The report must cover, but no be limited to the following:

- a. extent and stability of proposed embankments including those acting as retarding basins;
- b. recommended Geotechnical testing requirements;
- c. level of geotechnical supervision for each part of the works as defined under AS 3798 - Guidelines on Earthworks for commercial and Residential Developments;

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

13. Flooding Residential Development

The 1% Annual Exceedance Probability (AEP) Flood Level, the Probable Maximum Flood (PMF) Level and the Flood Planning Level (FPL) for this site are shown in Figures 5.2, 5.3 and 8.1 of Shell Cove B2 and C2 Flood Assessment prepared by Advisian dated 17 October 2019).

The development shall comply with the following requirements and shown on the Construction Certificate drawings submitted to the Certifying Authority:

- a. Habitable floor levels shall be equal to or greater than the FPL;
- b. All structures to have flood compatible components up to and including the FPL Level in accordance with Appendix 9 of Shellharbour City Councils Development Control Plan;
- c. An IEAust NER (National Engineering Register) 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; and
- d. Basement Car park :
 - i. Basement entry ramp be set to a minimum level of RL 4.90m AHD; and
 - ii. All ventilation points must be over RL 4.90m AHD.

14. 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. AUSTRROADS Guide to Pavement Technology can be used as the design guideline for the pavement design.

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

15. Section 7.11 Development Contributions

A contribution of \$1,217,395.75, subject to annual indexation, must be paid to Council towards the provision of public amenities and public services. 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 - \$1,308,813.85
- Less credit for Passive Open Space Embellishment C1.26 CE – (\$91,418.10)

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*. 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.

16. 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>

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

17. 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.

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 plan no. 8050 prepared by Donnelly Simpson Cleary on 22/04/2019;
- b. drain to the street and council pits;
- c. indicate the method of disposal of all stormwater and must include rainwater tanks, 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 the concept drainage plan.

19. Waste Management Plan – Operational

Prior to the issue of a Construction Certificate, a Waste Management Plan – operational, must be developed demonstrating how the site will manage its operational waste. The plan must include:

- a. How waste will be managed by the operator of the development;
- b. How waste will be disposed and appropriately collected by a private contractor;
- c. Detail arrangements for ensuring bins are stickered and ensuring relevant residents are aware of how to use the waste system correctly; and
- d. 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.

20. 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.

21. 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.

22. Waste Storage Area

The waste storage area must have sufficient size to store separate waste bins for both landfill and recyclables waste streams. Details of the dimensions of the waste storage area are to be shown on the Construction Certificate plans submitted to the Certifying Authority.

PART C - PRIOR TO COMMENCEMENT OF WORKS

23. Sediment and Erosion Controls

Sediment and erosion controls are to be installed as outlined in the Construction Environmental Management Plan (CEMP) and maintained appropriately throughout construction.

24. Construction Environmental Management Plan

A copy of the Construction Environmental Management Plan (CEMP) must be available on site at all times. All contractors are to be inducted with the CEMP before commencing on site.

25. 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.

26. 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 engineers design for all structural steel beams, framing and connections;
- c. roof truss and bracing details; and
- d. manufacturer's specifications for any patented construction systems.

Council records indicate that acid sulfate soils may be present in this area. The engineer's design must make specific reference to acid sulfate soils as a consideration.

27. 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

28. Acoustic Mitigation

Acoustic mitigation measures for the proposed development must be implemented during construction in accordance with the requirements outlined in Section 5.3 of the Shell Cove, B2 Apartments - Noise Impact Assessment' (Acoustic Logic 2019).

29. Survey Certification

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

30. Open or Occupy a Roadway or Footpath (Section 138 Roads Act 1993)

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

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

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

31. 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; and
- 8am to 1pm Saturdays.

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

32. 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.

During construction an approved litter receptacle with a tight fitting lid shall be provided on site for the disposal of builder refuse. Sorting of waste materials shall occur on site.

The applicant is required to keep supporting documentation (receipts/dockets), of reuse/recycling/disposal methods carried out, which are to be produced upon request by Council.

33. Storage of Materials

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

34. Driveway and/or Layback - From Kerb to Property Boundary

A standard commercial 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 minimum width compliant with Australian Standard 2890-2014 – Parking Facilities;
- 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.

35. 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 roof frame, prior to covering the roof, certifying that the height of the building is in accordance with the approved plans.

36. Connection to Council Pit and/or Pipe

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

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

All construction is to be carried out as per Council's Subdivision Code requirements.

The Certifying Authority must arrange for a satisfactory inspection by Shellharbour City Council prior to backfilling. At least one working days' 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

37. Acoustic Mitigation

Prior to the issue of an Occupation Certificate written evidence from a suitably qualified person must be submitted to the principal Certifying Authority that the acoustic mitigation measures

required by Acoustic Logic, reference 20190434.1/0808A/R1/WY Addendum - 20190434.6/1704A/RO/WY, have been implemented.

38. SEPP 65 Design Verification Statement

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. The design verification statement must also validate the provision of adaptable housing for a minimum of 12 apartments and the provision of 12 apartments meeting Universal Silver Living requirements as identified on approved drawing DA450 P11, DA452 P11 and DA453 P11 dated 28/04/2020.

39. Rock Anchors

Rock anchors within the Council road reserve are to be removed as per the advice of a Chartered Professional Structural Engineer. A report is to be provided to Shellharbour Council that states the rock anchors have been removed and grouting of sleeve carried out on completion.

40. Operational Plan of Management

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

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

- a. 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;
- b. maintenance regime - graffiti removal etc;
- c. security management - lighting, CCTV, access etc;
- d. the necessary operational and maintenance requirements of all landscaped areas including, rooftop common open space and central courtyard. Such requirements must ensure that the landscaping is maintained in perpetuity and in accordance with the Landscaping Plans by Fieldwork Associates; and
- e. Operating hours for gym and pool.

41. Swimming Pool Registration

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

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

Registration of the swimming pool can be completed free of charge by visiting:
www.swimmingpoolregister.nsw.gov.au <<http://www.swimmingpoolregister.nsw.gov.au>>

42. Occupation Certificate

Compliance with all conditions of Parts A to E 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.

43. BASIX

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

44. 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.

45. 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:

- a. An approved resuscitation notice must be displayed;
- b. Gates must swing away from the pool area and must be self-closing;
- c. 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;
- d. An effective fence height of 1.2m, and including the prescribed non climbable zone, must be maintained at all times; and
- e. Boundary fences forming part of the pool fence, and including the prescribed non climbable zone, must be no less than 1800mm in height.

46. 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 Certifying Authority 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.sydneysydneywater.com.au > Plumbing, building and developing > Developing > Land development or telephone 13 2092.

47. 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.

48. 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 Certifying Authority on completion of the landscape works certifying that the landscape is in accordance with the approved Landscape Plan.

49. 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.

50. Certification of Adaptable Housing

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

51. Intercom for Parking Levels

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

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

52. 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.

PART F - PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

Not applicable.

PART G - AFTER ISSUE OF OCCUPATION CERTIFICATE/DURING OCCUPATION

53. Car Parking Provision

At all times the number of private parking spaces for the residential apartments must be 166 spaces.

The following proportional mix must be complied with at the very minimum:

- a. minimum 1 space per 1 bedroom unit, and
- b. minimum 1-2 spaces per 2 and/or 3 bedroom units.

Pairs of stacked parking spaces must be allocated together to the same apartment.

The number of visitor car parking spaces must be 54 vehicle spaces. The visitor car parking spaces must always be available for visitor parking and must not at any time be allocated, sold or leased to an individual owner/occupier. In this regard, the visitor car parking spaces must form part of the common property in any future subdivision.

54. Enclosure of Balconies

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

55. 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.

56. 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.

57. Waste Management

Waste management shall be in accordance with the Waste Management Plan, and shall be designed to maximise source separation and recovery of food organics and recyclables. Educational signage shall be provided in all waste storage rooms, bulky waste storage rooms and FOGO storage rooms to clearly identify food organics and garden organics (FOGO), garbage, and recycling bins, and the materials accepted in each.

The communal waste, bulky waste and FOGO storage area or room/s shall be 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. Design and construction of the storage area shall prevent the egress of vermin. A central floor waste shall be provided for cleaning purposes in accordance with the requirements of Sydney Water.

Between collection periods, all waste/recycling materials generated onsite will be securely enclosed in bins and stored in the designated bin storage rooms.

58. BASIX Commitments

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

59. Plan of Management

The development shall be managed by the Plan of Management (POM) as required by condition 40 in perpetuity.

60. 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).

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.

<h3>Advisory Notes – General</h3>
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Swimming Pool Pump Noise

The swimming pool pump must not cause offensive noise at any time. Compliance with this requirement may necessitate the provision of an acoustic enclosure or acoustic treatment to this equipment and/or the restriction of hours of use. The *Protection of the Environment Operations (Noise Control) Regulation 2000* prohibits the use of any swimming pool pump at prescribed times when it can be heard in an adjoining premises.

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.

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 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, 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 six 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
- 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.

Development Application No. DA0501/2019
Lot 9009 DP1254656 (formerly known as Lot 1091 DP 1254727) Harbour Boulevard, Shell Cove

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/>> 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