

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Application number	DA0459/2023 PAN-381681
Applicant	Australand Corporation (NSW) Pty Ltd Level 2, 1C Homebush Bay Drive RHODES NSW 2138
Description of development	Boat storage and maintenance facility (boat building and repair facility), five workshops with retail spaces, four offices (commercial premises) and one café (food and drink premises), car parking and landscaping.
Property	5 Maritime Drive, Shell Cove Lot 1061, DP 1253523
Determination	Approved Consent Authority – Southern Regional Planning Panel
Date of determination	17/12/2024
Date from which the consent operates	17/12/2024
Date on which the consent lapses	17/12/2029

Under section 4.18(1) of the EP&A Act, notice is given that the above development application has been determined by the granting of consent using the power in section 4.16(1)(a) of the EP&A Act, subject to the conditions specified in this notice.

Reasons for approval

- The development is consistent with the objectives of the applicable environmental planning instruments and development control plans.
- The development is considered to be of an appropriate scale and form for the site and the character of the locality.
- Subject to the recommended conditions, the development is unlikely to have any unreasonable adverse impacts on the natural or built environments.
- No submissions were received by Council during the assessment of this development application.

For the above reasons, the development is a suitable use of the site and its approval is in the public interest.

Right of appeal / review of determination

If you are dissatisfied with this determination:

Request a review

You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 6 months from the date that you received the original determination notice provided that an appeal under section 8.7 of the EP&A Act has not been disposed of by the Court.

Rights to appeal

You have a right under section 8.7 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.

The Dictionary at the end of this consent defines words and expressions for the purposes of this determination.

Madeline Cartwright

Principal Town Planner – Statutory Planning

Person on behalf of the consent authority

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

General Conditions

1	Construction Certificate & PC Notification																																																																														
	Before any site works, building or use is commenced, the person having the benefit of the development consent must:																																																																														
	<ul style="list-style-type: none"> a. obtain a Construction Certificate from Shellharbour City Council or other accredited certifier, and b. appoint a Principal Certifier. 																																																																														
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2	Prescribed Conditions																																																																														
	This development consent is subject to the prescribed conditions made under the Environmental Planning & Assessment Regulation 2021.																																																																														
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3	Approved plans and supporting documentation																																																																														
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DA01	03	Cover sheet, drawing schedule and locality plan	Northrop	29.09.2023
13294-L-BMF-2000	D	Landscape Site plan ground floor	Group GSA	21.03.2024
13294-L-BMF-2001	B	Landscape Level 1 plan	Group GSA	30.06.2023
13294-L BMF-2002	D	Landscape Zoom in plan	Group GSA	21.03.2024change included

Approved documents

Document title	Version number	Prepared by	Date of document
Waste Minimisation and Management Plan	1	MRA Consulting Group	27.07.2023
Traffic, Transport and Access Report	11230	Colston Budd Rodgers & Kafes	August 2023
Stormwater drainage and water quality report	221886_STW01 rev. 04	Northrop	29.09.2023
Geotechnical Review	30018031_32	SMEC	21.03.2023
Crime Prevention Through Environmental Design Report	2190158	Ethos Urban	22.08.2023
Air Quality Impact Assessment	-	Advisian	10.08.2023
Acid Sulphate Soil Management Plan	1	SMEC	16.05.2023
Light Spill Assessment	-	Stantec	13.03.2024
Plan of Management	-	Shellharbour City Council	February 2024
ESD DA Report	301351316 revision 4	Stantec	18.10.2023
DA Noise assessment report	256688 AC42 version 7	ARUP	17.10.2024

In the event of any inconsistency between the approved plans and documents, the approved plans prevail.

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Condition reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

4 Compliance with Notations on Drawings

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

Condition reason: To ensure that the design and siting of the development complies with the provisions of Environmental Planning Instruments and Council's Codes and Policies

5 Unit Numbering

Addressing will be as follows:

	Street Number	Street Name	Street Type	Locality
BMF Office	G01/5	Maritime	Drive	Shell Cove
Cafe	G02/5	Maritime	Drive	Shell Cove
Office 1	106/5	Maritime	Drive	Shell Cove
Workshop/Retail 1	101/5	Maritime	Drive	Shell Cove
Workshop/Retail 2	102/5	Maritime	Drive	Shell Cove
Workshop/Retail 3	103/5	Maritime	Drive	Shell Cove
Workshop/Retail 4	104/5	Maritime	Drive	Shell Cove

	Workshop/Retail 5	105/5	Maritime	Drive	Shell Cove								
	Office 2	202/5	Maritime	Drive	Shell Cove								
	Office 3	203/5	Maritime	Drive	Shell Cove								
	<p>a. The allocated number must be displayed prior to occupation. Where plans and details are provided to service suppliers, numbers must be in accordance with the addresses provided; and</p> <p>b. Letterboxes must be visible from the street and clearly numbered according to the address allocated with both unit and street numbers.</p>												
6	Endeavour Energy												
	<p>Correspondence has been received from Endeavour Energy dated 17 March 2024 and forms part of this development consent. This document can be found on the NSW Planning Portal under 'Agency Advice' and in "Other Approvals" at the end of this Notice.</p> <p>In addressing this correspondence, each condition marked with a checked box applies to the development. Further information on each applicable clause is provided within Endeavour Energy's document 'Standard Conditions for Development Applications and Planning Proposals. This document can be found on the Planning Portal under 'Agency Advice'.</p>												
7	General Terms of Approval of State Authorities												
	<p>The general terms of approval from state authorities shall be complied with prior to, during, and at the completion of the development.</p> <p>The general terms of approval/requirements are:</p> <ol style="list-style-type: none"> 1. Environmental Protection Agency dated 05.12.2024. <p>The documents can be found on the NSW Planning Portal under 'Agency Advice' and in 'Other Approvals' at the end of this Notice.</p> <p>Condition Reason: To ensure that construction is carried out in accordance with relevant legislation.</p>												
8	Housing and Productivity Contribution												
	<p>a. The housing and productivity contribution (HPC) set out in the table below, but as adjusted in accordance with part b, is required to be made:</p> <table border="1"> <tr> <td>Housing and productivity contribution</td> <td>Amount</td> </tr> <tr> <td>Housing and productivity contribution (base component)</td> <td>97,047.78</td> </tr> <tr> <td>Transport project component</td> <td>nil</td> </tr> <tr> <td>Total housing and productivity contribution</td> <td>97,047.78</td> </tr> </table>					Housing and productivity contribution	Amount	Housing and productivity contribution (base component)	97,047.78	Transport project component	nil	Total housing and productivity contribution	97,047.78
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	<p>b. The amount payable at the time of payment is the amount shown in part a as the total and productivity contribution adjusted by multiplying by:</p> $\frac{\text{highest PPI number}}{\text{consent PPI number}}$ <p>where: <i>highest PPI number</i> is the highest PPI number for a quarter following the June quarter 2023 and up to and including the 2nd last quarter before the quarter in which the payment is made, and <i>consent PPI number</i> is the PPI number last used to adjust HPC rates when consent was granted, and June quarter 2023 and PPI have meanings given in clause 22(4) of the <i>Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023</i>.</p>												

If the amount adjusted in accordance with this condition is less than the amount at the time consent is granted, the higher amount must be paid.

- c. The HPC must be paid before the issue of the first construction certificate in relation to the development, or before the commencement of any work authorised by this consent (if no construction certificate is required). However, if development is any of the kinds set out in the table below, the housing and productivity contribution must be paid as set out in the table:

Development	Time by which HPC must be paid
Development consisting only of residential subdivision within the meaning of the HPC Order	Before the issue of the first subdivision certificate
High-density residential development within the meaning of the HPC Order for which no construction certificate is required	Before the issue of the first strata certificate
Development that consists only of residential strata subdivision (within the meaning of the HPC Order) or only of residential strata subdivision and a change of use of an existing building	Before the issue of the first strata certificate
Manufactured homes estate for which no construction certificate is required	Before the installation of the first manufactured home

In the table, *HPC Order* means the *Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023*.

- d. The HPC must be paid using the NSW Planning Portal

(<https://pp.planningportal.nsw.gov.au/>).

- e. If the Minister administering the *Environmental Planning and Assessment Act 1979* agrees, the HPC (apart from any transport project component) may be made, instead of as a monetary contribution, in the following ways:

- i. The dedication or provision of land for the purpose of regional infrastructure in the region in which the development will be carried out.
- ii. The carrying out of works for the purpose of regional infrastructure in the region in which the HPC development will be carried out.

If the HPC is made partly as a monetary contribution, the amount of the part payable is the amount of the part adjusted in accordance with part b at the time of the payment.

- f. Despite part a, a housing and productivity contribution is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the *Environmental Planning and Assessment Act 1979* to the development, or the *Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023* exempts the development from contribution. The amount of the contribution may also be reduced under the order, including if payment is made before 1 July 2023.

Condition reason: To minimise any possible adverse environmental impacts of the proposed development

Building Work Before issue of a construction certificate

9	<p>Section 7.11 Development Contributions</p> <p>Before the issue of a Construction Certificate a contribution of \$2,293.35, subject to annual indexation, must be paid to Council towards the provision of public amenities and public services.</p> <p>This amount has been calculated in accordance with Shellharbour City Council's Local Infrastructure Contributions Plan 2019 9th Review (Amendment 1) 6 June 2022 in the following manner:</p> <ul style="list-style-type: none"> • Non-residential contribution – \$2,293.35 <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">Open Space contribution</td> <td style="text-align: right;">\$ -</td> </tr> <tr> <td>Community Infrastructure contribution</td> <td style="text-align: right;">\$1,223.99</td> </tr> <tr> <td>Roads & Traffic Infrastructure contribution</td> <td style="text-align: right;">\$ -</td> </tr> <tr> <td>Drainage contribution</td> <td style="text-align: right;">\$ -</td> </tr> <tr> <td>Administration contribution</td> <td style="text-align: right;">\$1,069.36</td> </tr> <tr> <td>Total contribution payable</td> <td style="text-align: right;">\$2,293.35</td> </tr> </table> <p>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.</p> <p>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.</p> <p>Condition Reason: To ensure contributions are paid in accordance with relevant legislation.</p>	Open Space contribution	\$ -	Community Infrastructure contribution	\$1,223.99	Roads & Traffic Infrastructure contribution	\$ -	Drainage contribution	\$ -	Administration contribution	\$1,069.36	Total contribution payable	\$2,293.35
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10	<p>Amendments to Approved Plans</p> <p>Before the issue of a Construction Certificate the following design changes must be incorporated into the plans prepared for the Construction Certificate and before submission to the certifier submitted for approval to the Executive Director Planning and Environment Shellharbour City Council:</p> <ol style="list-style-type: none"> a. The maximum height of the development within 10 metres of the southern setback of the site is to not exceed 10 metres. b. Suitable areas for pedestrians to wait whilst the pedestrian boardwalk is closed are to be identified and embellished accordingly with suitable seating and shade provided. c. Signage plans detailing suitable wayfinding signs for the alternative pedestrian route when the public boardwalk is closed. d. Suitable waste storage areas within the footprint of the development for each unit. e. Additional landscaping with suitable street trees along the western boundary with Shoal Lane/Seaboard Way <p>Condition reason: To minimise any possible adverse environmental impacts of the proposed development.</p>												

11	<p>Building Plan Approval - Sydney Water</p> <p>The approved plans must be submitted to a <i>Sydney Water Tap In</i> agent to determine whether the development will affect Sydney Water wastewater and water mains, stormwater drains and/or easements, and if any requirements need to be met. Sydney Water's Tap In online service is available at:</p> <p>https://www.sydneywater.com.au/plumbing-building-developing/building/sydney-water-tap-in.html</p> <p>The Principal Certifier must ensure that <i>Sydney Water Tap In</i> has issued the appropriate electronic approval prior to the commencement of any works.</p> <p>Condition reason: To ensure Sydney Water's requirements are provided to the Principal Certifier.</p>
12	<p>Long Service Levy</p> <p>The Long Service Levy must be paid prior to the issue of the Construction Certificate for work exceeding a value of \$250,000.00.</p> <p>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.</p> <p>Condition reason: To ensure the Long Service Levy is paid in accordance with relevant legislation.</p>
13	<p>Acid Sulphate Soils Management Plan</p> <p>Before issue of a Construction Certificate the approved Acid Sulphate Soils Management Plan is to be updated to outline any dam dewatering requirements should deep excavation be proposed for the foundation footings and submitted to the Executive Director Planning and Environment Shellharbour City Council for approval.</p>
	<p>Condition Reason: To minimise any possible adverse environmental impacts of the proposed development.</p>
14	<p>Easement & Engineer's Details</p> <p>The walls of any structure adjoining the easement boundary must be designed by a suitably qualified engineer to withstand all forces should the easement be excavated to existing pipe invert level. Details to be submitted to the Certifying Authority prior to issue of the Construction Certificate.</p> <p>Condition reason: To minimise any possible adverse environmental impacts of the proposed development.</p>

15	<p>Retaining Wall</p> <p>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. Plans demonstrating compliance with this and the following matters must be submitted to and approved by the certifier prior to the issue of the Construction Certificate:</p> <p>All retaining walls must be located wholly within the subject property, including footings and aggregate drainage lines.</p> <p>The construction of retaining walls must be located wholly within the subject property, including footings and aggregate drainage lines.</p> <p>Aggregate drain pipes must be connected to legal point of discharge.</p> <p>Construction of the retaining wall must not compromise the integrity of any existing sewer line, inter-allotment drainage line, or other infrastructure. Footings must not be located within a drainage easement. Revised footing locations or deeper footings may be required to prevent impacting on this existing infrastructure. Any damage to this infrastructure arising from the construction or presence of a retaining wall must be rectified by the owner of the land at their full cost.</p> <p>Condition reason: To minimise any possible adverse environmental impacts of the proposed development.</p>
16	<p>Detailed Drainage Design</p> <p>A detailed drainage design of the site must be submitted and approved prior to the release of the Construction Certificate. The detailed plan must:</p> <ul style="list-style-type: none"> a. be generally in accordance with Civil Engineering Plans ref no. 221886 revision 3 prepared by Northrop on 29/09/2023, b. 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 size of all pipelines, c. be to the satisfaction of the Principal Certifier, d. be designed to cater for a 1 in 20 year Average Recurrence Interval storm event, e. overflow drainage paths are to be provided and be designed to cater for a 1 in 100 year Average Recurrence Interval storm event, f. comply with Council's Shellharbour Development Control Plan (Chapter 25 & Appendix 10) unless variation is specifically noted and approved on DA concept drainage plan. <p>Condition reason: To minimise any possible adverse environmental impacts of the proposed development.</p>
17	<p>Soil and Water Management Plan (SWMP)</p> <p>Before the issue of the Construction Certificate, the applicant must submit to and obtain the Certifying Authority approval of a Soil and Water Management Plan. The SWMP must clearly identify site features, constraints and soil types together with the nature of the proposed land disturbing activities and also specifies the type and location of erosion and sediment control measures. In addition rehabilitation techniques that are necessary to deal with such activities should be referred to.</p> <p>The SWMP must take into account the requirements of Landcom's publication Managing Urban Stormwater - Soils and Construction (2004) thus ensuring the following objectives are achieved, namely:</p>

	<ul style="list-style-type: none"> a. minimise the area of soils exposed at any one time, b. conserve topsoil for reuse on site, c. identify and protect proposed stockpile locations, d. preserve existing vegetation and identify revegetation techniques and materials. e. control surface water flows through the development construction site on a manner that: <ul style="list-style-type: none"> i. diverts clean run-off around disturbed areas. ii. minimises slope gradient and flow distance within disturbed areas. iii. ensures surface run-off occurs at non-erodible velocities. iv. ensures disturbed areas are promptly rehabilitated. f. trap sediment on site to prevent off site damage. Hay bales are not to be used as sediment control devices. To ensure regular monitoring and maintenance of erosion and sediment control measures and rehabilitation works until the site is stabilized (includes landscaping). g. specifies measures to control dust generated as a result of construction activities on site. h. temporary sediment ponds must be fenced where the batter slope exceeds 1 vertical to 5 horizontal, i. design scour protection for the 10 year ARI event at all inlet and outlet structures. j. including measures to prevent the tracking of sediment off the site.
18	<p>Stormwater Conduit in Road Reserve and Connection with Kerb</p> <p>Where the existing connection point is not available in either normal kerb and gutter or roll type kerb and gutter, the kerb must be saw cut to provide for the connection of the pipe. The saw cut must ensure that a minimum of 50mm of cover is available on all 3 sides of the pipe to permit adequate strength and thickness for the concrete finish.</p> <p>Galvanized steel pipe, sewer grade UPVC pipe or 'Corflow' spirally reinforced PVC pipe must be used from the property boundary to the kerb and gutter. The kerb and gutter connection must be a 100mm diameter galvanised steel circular section for 150mm kerb and gutter or a 150mm x 50mm galvanised rectangular steel section for roll kerb ensuring that the galvanised section is fully encased by concrete.</p> <p>A maximum of two pipes of 100mm diameter may be used to discharge to the kerb and gutter.</p> <p>Condition reason: To minimise any possible adverse environmental impacts of the proposed development.</p>
19	<p>Structural Capacity of Stormwater Pipes</p> <p>Pipes under buildings shall be structurally designed to withstand all applied forces. Pipes with a grade of greater than 12% require anchor blocks at the top and bottom of the inclined section and at a maximum interval of 3 metres. Details to this effect shall be incorporated on the detailed drainage design that is submitted to the certifying authority for the Construction Certificate.</p>

	Condition reason: To minimise any possible adverse environmental impacts of the proposed development.
20	<p>Structural Design of Deep Pits</p> <p>All pits deeper than 0.9 metres must be designed by a certified structural engineer and be in accordance with AS3600-2009. Pits deeper than 1.2 metres must have galvanised steel step irons (plastic coated black steel step irons will not be accepted) and pits deeper than 1.8 metres are to be reinforced concrete. Step irons at 300mm interval spacing from bottom of pit. Top step minimum 500mm below top surface level. Details to this effect shall be incorporated on the detailed drainage design that is submitted to the certifying authority for the Construction Certificate.</p> <p>Condition reason: To minimise any possible adverse environmental impacts of the proposed development.</p>
21	<p>Pit Grates</p> <p>All pits must have flush fitting grates. All pits larger than 600mm x 600mm are to be grated galvanised steel grid hinged and be heavy duty type where traffic loading is expected.</p> <p>Condition reason: To minimise any possible adverse environmental impacts of the proposed development.</p>
22	<p>Engineer Design Pavement</p> <p>All car parking areas, manoeuvring areas and the access aisle must be paved, drained and marked. The pavement must be designed by a qualified civil engineer and certified to be satisfactory for the expected traffic loadings from a development of this size and type. AUSTROADS Guide to Pavement Technology can be used as the design guideline for the pavement design.</p> <p>The laybacks and crossings must be designed to accommodate expected traffic loadings. In this regard they must be constructed to an 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.</p> <p>Condition reason: To minimise any possible adverse environmental impacts of the proposed development.</p>
23	<p>Verification of Driveway and Ramp Grades with Council Standards</p> <p>To verify that vehicular access will comply with Council's requirements, a scaled long section of the proposed driveway / ramp, from kerb and gutter at the point of access to the proposed garage floor level must be submitted with the Construction Certificate and shall include:</p> <ol style="list-style-type: none"> existing natural surface levels, proposed grades and finished surface levels of the driveway / ramp, preliminary details of the method of treatment of any fill/retaining wall which may be required in conjunction with the proposed driveway / ramp. <p>No part of the driveway / ramp must have grades exceeding Council's standards. As such, the long section shall be taken along the critical path, i.e. the side of the driveway that will have the steepest grades.</p> <p>Condition reason: To minimise any possible adverse environmental impacts of the proposed development.</p>
24	<p>Car Parking Space - Dimensions</p> <p>All car parking spaces must be in accordance with the relevant Australian Standard AS 2890 series (or subsequent amendments).</p> <p>Condition reason: To minimise any possible adverse environmental impacts of the proposed development.</p>

25	<p>Mechanical Plant Noise</p> <p>Before the issue of a construction certificate, a review of the proposed mechanical plant and services design must be conducted by a suitably qualified acoustic consultant (being an employee of a member firm of the Association of Australasian Acoustical Consultants (AAAC), or a member of the Australian Acoustical Society) and submitted to the Principal Certifier for approval.</p> <p>The review must confirm the following:</p> <p>Noise from mechanical plant when measured at the closest affected residential balconies or windows, must not exceed:</p> <ul style="list-style-type: none"> o Daytime LAeq(15minute) 50 dB; o Evening LAeq(15minute) 45 dB; o Night LAeq(15minute) 40 dB. <p>To limit the risk of acoustic disturbance, cumulative noise impacts associated with mechanical plant servicing nearby tenancies must also be considered.</p> <p>The assessment of mechanical plant should include corrections for potentially annoying characteristics if required, e.g. humming, low frequency content, tonal, intermittency, as per Fact Sheet C of the Noise Policy for Industry.</p> <p>The acoustic certification report must confirm the cumulative noise emission from the proposed items of mechanical plant satisfies the project objectives when measured at the closest affected residential receiver locations.</p> <p>Condition Reason: To ensure the acoustic amenity of neighbours is adequately protected.</p>
26	<p>Payment of security deposits</p> <p>Before the issue of the relevant construction certificate, or before demolition work commences, the applicant must pay the following deposits in accordance with Council's Fees & Charges:</p> <ul style="list-style-type: none"> a. New street tree bond for (4) new street trees. b. Street tree inspection fee for: <ul style="list-style-type: none"> i. street tree inspection prior to occupation of the development. ii. street tree inspection following completion of the maintenance period. <p>Written evidence of the payment and amount paid is to be provided to the Principal Certifier.</p> <p>Condition reason: To minimise any possible adverse environmental impacts of the proposed development.</p>
27	<p>Lighting Design</p> <p>Before the issue of a Construction Certificate, details of external lighting design is to be submitted to Shellharbour City Council for approval. The lighting design is to be prepared in accordance with the approved Light Spill Assessment prepared by Stantec dated 13.03.2024 and the following provisions to be included:</p> <ul style="list-style-type: none"> a. Ensure there are no lighting concealment spots adjacent to public space. b. Leave a limited amount of internal lighting on at night to enable Police, security guards and people passing by to monitor activities within the building. c. Ensure entry and exit points are adequately lit. d. Pedestrian pathways and access routes should be lit. e. Areas should enable users to identify a face 15 metres away.

	Condition Reason: To minimise any possible adverse environmental impacts of the proposed development.
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Before building work commences

28	Construction Noise and Vibration Management Plan
	<p>Before the commencement of any demolition, excavation and construction works on site, a site-specific Demolition, Excavation, Construction Noise and Vibration Management Plan must be prepared in accordance with the requirements of the NSW EPA Interim Construction Noise Guideline (2009), and submitted to Council for approval.</p> <p>i. The plan must be prepared by a suitably qualified acoustic consultant (being an employee of a member firm of the Association of Australasian Acoustical Consultants (AAAC), or a member of the Australian Acoustical Society).</p> <p>ii. The plan must include but not be limited to the following:</p> <ul style="list-style-type: none"> o Identification of any noise sensitive receivers adjacent to the site (including ground floor and upper-floor receiver locations); o The predicted noise and vibration levels at the nearest noise sensitive receivers; o A statement outlining whether or not predicted noise levels will comply with the noise objectives stated in the NSW EPA Interim Construction Noise Guideline (2009). Where noise levels are predicted to exceed the noise objectives, then details of the following must be included in the plan: <ul style="list-style-type: none"> • Duration and frequency of respite periods that will be afforded to the occupiers of neighbouring properties; and • Details of any other noise mitigation measures that will be deployed on site to reduce noise impacts on the occupiers of neighbouring noise sensitive property to a minimum; • Details of the community liaison procedure to be implemented including contact details for relevant site foreman/manager; • Details of the noise and vibration programme that is to be undertaken during works; • The type of action that will be undertaken following receipt of a noise or vibration complaint.
	Condition Reason: To minimise any possible adverse environmental impacts of the proposed development
29	Structural Details
	<p>Before building work commences the following structural details must be provided to the Principal Certifier for approval:</p> <ul style="list-style-type: none"> a. structural engineer's design for all reinforced concrete footings and slabs, b. structural engineer's design for all structural steel beams, framing and connections, c. roof truss and bracing details, and d. manufacturer's specifications for any patented construction systems.
	Condition reason: To ensure works are constructed in accordance with Council requirements.

30	<p>Erosion & Sediment Control</p> <p>Erosion and sediment controls must be provided to ensure:</p> <ul style="list-style-type: none"> a. compliance with the approved Erosion & Sediment Control Plan, b. removal or disturbance of vegetation and top soil is confined to within 3m of the approved building area (no trees to be removed without approval), c. all clean water run-off is diverted around cleared or exposed areas, d. silt fences, stabilised entry/exit points or other devices are installed to prevent sediment from entering drainage systems or waterways, e. all erosion and sediment controls are fully maintained for the duration of demolition, excavation and/or development works, f. controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadway, g. all disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar, and h. compliance with Managing Urban Stormwater - Soils and Construction (Blue Book) produced by Landcom 2004. <p>These measures are to be implemented before building work commences (including demolition of excavation) and must remain until the issue of the occupation certificate.</p> <p>Condition reason: To minimise any possible adverse environmental impacts of the proposed development.</p>
31	<p>Dilapidation Report</p> <p>Before any site work commences, a dilapidation report must be prepared by a suitably qualified person detailing the structural condition of adjoining buildings, structures or works and public land, to the satisfaction of the Principal Certifier or Council.</p> <p>Where access has not been granted to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and demonstrate, in writing, to the satisfaction of the Principal Certifier or Council, that all reasonable steps were taken to obtain access to the adjoining properties.</p> <p>No less than seven (7) days before any site work commences, adjoining building owner(s) must be provided with a copy of the dilapidation report for their property(ies) and a copy of the report(s) must be provided to Council (where Council is not the principal certifier) at the same time.</p> <p>Condition reason: To minimise any possible adverse environmental impacts of the proposed development</p>
32	<p>Soil and Water Management Plan Implementation (SWMP)</p> <p>The measures required in the Soil and Water Management Plan approved by the Certifying Authority must be implemented prior to the commencement of works.</p>

	Condition reason: To minimise any possible adverse environmental impacts of the proposed development
33	<p>Site Management Plan</p> <p>Before the building work commences, the applicant must submit to and obtain approval for a construction and site management plan from the Principal Certifier that clearly sets out the following:</p> <ol style="list-style-type: none"> 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, the proposed method of loading and unloading excavation machines, building materials and formwork within the site, the proposed areas within the site to be used for the storage of excavated material, construction materials and waste containers during the construction period, 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, 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 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. <p>Condition reason: To minimise any possible adverse environmental impacts on the proposed development.</p>
34	<p>Open or Occupy a Roadway or Footpath (Section 138 Roads Act 1993)</p> <p>Before any physical works have commenced within Council's road reserve such as (but not limited to) installing a driveway or connecting stormwater facilities the person acting on this consent will need to obtain approval from Council under Section 138 of the <i>Roads Act 1993</i>.</p> <p>To lodge the application, the following information will be required:</p> <ol style="list-style-type: none"> details of the proposed works in the road and footpath area, traffic management plan, provision of public risk insurance and, details of timing and length of works. <p>Condition reason: To ensure works are undertaken in accordance with the Roads Act 1993</p>
35	<p>Flood Planning Level</p> <p>The Flood Planning Level (FPL) (1% AEP + 500mm Freeboard) for this site is RL 2.8m AHD The development shall comply with the following restrictions:</p> <ol style="list-style-type: none"> All habitable floor levels shall be equal to or greater than the FPL, Floor levels of lower workshop, wash bays and storage areas to be as close to the FPL as practical. Where they are below the FPL, all structures to have flood compatible components up to and including the FPL in accordance with Appendix 9 of Shellharbour City Council's Development Control Plan,

	<p>c. An IEAust NER Structural Engineer's certificate certifying that structures are designed to withstand forces of floodwaters, debris and buoyancy up to and including the FPL is to be submitted with the Construction Certificate Application.</p>
	<p>Condition reason: To minimise any possible adverse environmental impacts of the proposed development.</p>
36	<p>Sydney Water Trade Waste Agreement</p> <p>Prior to the issue of a Construction Certificate written documentation is to be provided from Sydney Water that indicates that a trade waste agreement has been entered into for the grease trap that will be utilised for the food business operations. Or written documentation from Sydney water advising a grease trap in not required for these premises.</p> <p>Condition Reason: To ensure works are undertaken in accordance with the relevant legislation.</p>
37	<p>Kitchen Exhaust Design</p> <p>If a mechanical exhaust system is provided in the kitchen then this exhaust and any mechanical ventilation must discharge through the roof of the building and must comply with AS 1668.2 - Part 2 (Ventilation Design for Indoor Air Contaminant Control).</p> <p>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.</p> <p>This information must be provided to the Certifying Authority for approval prior to the issue of the Construction Certificate</p> <p>Condition Reason: To ensure works are undertaken in accordance with the relevant legislation.</p>
38	<p>Cleaners Sink</p> <p>Prior to the issue of a Construction Certificate detailed plans of the cleaners sink or sluice sink must be submitted to the Certifying Authority for approval. The cleaners sink or sluice sink (for cleaning the kitchen floor) is to be provided for disposing of mop water and similar liquid waste. It shall be provided with hot and cold water. It can be located outside the kitchen.</p> <p>Condition Reason: To ensure works are undertaken in accordance with the relevant legislation.</p>
39	<p>Food Premises – Plans and Specifications</p> <p>Details of the construction and fit out of food premises (kitchen) must be submitted to the Certifying Authority prior to the issue of a Construction Certificate.</p> <p>The plans and specifications must demonstrate compliance with:</p> <ol style="list-style-type: none"> Approved Plans & Specifications; Food Act 2003 (as amended); Food Regulation 2015 (as amended); Food Standards Code as published by Food Standards Australia; New Zealand and Australian Standard AS4674:2004 Design, Construction and fit out of food premises (as amended); and Sydney Water - Trade Waste Section. <p>The detailed plans of the kitchen fit out must be submitted to the Certifying Authority for approval. The following details are to be included in the kitchen fit out:</p> <ol style="list-style-type: none"> A separate hand basin must be provided in the kitchen. The hand basin must have hot and cold

	<p>water delivered through a single outlet.</p> <p>h. A dishwasher and a single bowl sink, or a double bowl sink, (with a supply of cold and hot water) must be provided in the kitchen for cleaning purposes.</p> <p>i. Coving must be installed at the intersection of floors with walls/plinths and shall be integral to the surface finish of both the floor and wall so as to form a continuous uninterrupted surface.</p> <p>j. Light fittings in the kitchen shall be;</p> <ul style="list-style-type: none"> i. Designed and constructed to prevent contamination of food should the globe or tube shatter; and ii. Free from any features that would harbour dirt, dust, insects or make the fitting difficult to clean. iii. Fluorescent lights must be fitted with diffuser covers.
	<p>Condition Reason: To ensure works are undertaken in accordance with the relevant legislation.</p>

During building work

40	<p>Retaining Walls</p> <p>The cut and filled areas associated with the building work must be suitably retained or battered in accordance with the Shellharbour Development Control Plan.</p> <p>Any retaining wall 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.</p> <p>Condition reason: To minimise any possible adverse environmental impacts of the proposed development.</p>
41	<p>Stormwater Disposal & Rainwater Tank</p> <p>Overflow waters from the rainwater tank and all roof waters not directed to the rainwater tank must be drained to the street gutter/drainage easement.</p> <p>All connections to Council's gutter or easements must be constructed in accordance with the Shellharbour Development Control Plan.</p> <p>Condition reason: To minimise any possible adverse environmental impacts of the proposed development</p>
42	<p>Survey Certification</p> <p>A report from a registered surveyor must be provided to the Principal Certifier.</p> <p>The report must certify all of the following:</p> <ul style="list-style-type: none"> 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, c. Suitable waste storage areas within the footprint of the development for each unit.

	<p>Condition reason: To minimise any possible adverse environmental impacts of the proposed development</p>
43	<p>Hours of Work</p> <p>Site work must only be carried out in accordance with the hours of construction as specified in condition 11 of the General Terms of Approval issued by the Environmental Protection Agency dated 05.12.2024. Site work is not to be carried out outside of these times except where there is an emergency, or for urgent work directed by a police officer or a public authority.</p> <p>Condition reason: To minimise any possible adverse environmental impacts of the proposed development.</p>
44	<p>Maintenance of Soil and Water Management Plan (SWMP)</p> <p>The soil and water management controls must be maintained at all times during each stage of the development and checked for adequacy daily. The controls must not be removed until the development is completed and the disturbed areas have been stabilised.</p> <p>Maintenance must include but is not limited to ensuring:</p> <ol style="list-style-type: none"> a. all sediment fences, sediment traps and socks are properly placed and are working effectively and, b. drains, gutters and roads are maintained clear of sediment at all times. <p>Note: It is an offence under the Protection of the Environment Operations Act 1997 to allow soil or other pollutants to fall or be washed into any waters or be placed where it is likely to fall or be washed into any waters. Substantial penalties may be issued for any offence.</p> <p>Condition reason: To minimise any possible adverse environmental impacts of the proposed development.</p>
45	<p>Waste Management Facility</p> <p>All materials removed from the site as a result of demolition, site clearing, site preparation and, or excavation shall be disposed of at a suitable Waste Management Facility. Copies of all receipts for the disposal, or processing of all such materials shall be submitted to the Principal Certifier and a copy provided to Council.</p> <p>Condition reason: To minimise any possible adverse environmental impacts of the proposed development</p>
46	<p>Storage of Materials</p> <p>Building materials and equipment must not be stored on the road reserve/footpath area.</p> <p>Condition reason: To minimise any possible adverse environmental impacts of the proposed development</p>
47	<p>Cut/Fill</p> <p>The cut and fill areas must:</p> <ol style="list-style-type: none"> a. be suitably retained, b. be in accordance with the approved plans, c. have a maximum grade of 45 degrees (1:1) where there is no retaining wall or no other method of stabilising the cut/fill area, and

	<p>d. not exceed 1m in depth outside the external walls of a building, unless otherwise approved in writing by Council.</p> <p>Condition reason: To minimise any possible adverse environmental impacts of the proposed development</p>
48	<p>Connection to Council Pit and/or Pipe</p> <p>Any connection to a Council pit and/or pipe must:</p> <ul style="list-style-type: none"> 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 a 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 of the diameter of the Council pipe, connection is to be made by construction of a standard pit. <p>All construction is to be carried out as per Shellharbour Engineering Code requirements.</p> <p>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.</p> <p>An inspection fee will apply in accordance with Council's Fees & Charges.</p> <p>Condition reason: To minimise any possible adverse environmental impacts of the proposed development</p>
49	<p>Works In, On or over a Public Road</p> <p>In accordance with section 142(i)(a) of the Roads Act 1993 the person who has a right to the control, use or benefit of a structure or work in, on or over a public road (namely a footpath crossing), must maintain the structure or work in a satisfactory state of repair.</p> <p>Condition reason: To minimise any possible adverse environmental impacts of the proposed development.</p>
50	<p>Driveway and Layback – From Kerb to Property Boundary</p> <p>An industrial standard vehicular concrete driveway and layback must be constructed between the kerb and the property boundary. The driveway must:</p> <ul style="list-style-type: none"> a. maintain a perpendicular alignment from the kerb to the property boundary line, b. have a minimum width of 2.7m and a maximum width in accordance with the approved plans, c. not interfere with existing public utility infrastructure, d. be located 500mm clear of all drainage structures and 2m from any street trees, 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. <p>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</p>

	<p>driveway works commencing. It is an offence to modify or tamper with the assets of a service provider.</p> <p>Condition reason: To minimise any possible adverse environmental impacts of the proposed development</p>
51	<p>Air Quality Mitigation Measures</p> <p>All construction works are to be carried out in accordance with the approved Air Quality Impact Assessment prepared by Advisian dated 10.08.2023.</p> <p>Condition reason: To minimise any possible adverse environmental impacts of the development.</p>
52	<p>Flood Survey Certification</p> <p>A survey certificate, signed by a Registered Surveyor, shall be submitted for approval when the formwork for the main floor area is completed. This certificate shall certify that the main floor and any habitable floor levels shall be constructed at or above the Flood Planning Level R.L 2.8m AHD.</p> <p>Condition Reason: To minimise any possible adverse environmental impacts of the proposed development</p>
53	<p>Unexpected Finds Protocol</p> <p>a. Should any contamination or suspect material be encountered during site preparation, earth works, construction or any other stage of the development, then works must cease immediately and a suitably qualified consultant engaged to conduct a thorough contamination assessment.</p> <p>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.</p> <p>All recommendations provided in the contamination assessment must be followed as stipulated.</p> <p>b. If any Aboriginal archaeological artefacts are encountered during construction works, all ground disturbance in the area of the find must cease and the Department of Industry and Environment (DPIE) be contacted immediately to determine an appropriate course of action in line of relevant legislation.</p> <p>Condition reason: To minimise any possible adverse environmental or cultural impacts of the proposed development</p>
54	<p>Tree protection during work</p> <p>While site work is being carried out, all required tree protection measures must be maintained in good condition in accordance with:</p> <ul style="list-style-type: none"> a. the construction site management plan required under this consent, b. the relevant requirements of AS-4970 Protection of trees on development sites, c. any arborist's report approved under this consent. <p>This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.</p> <p>Condition reason: To minimise any possible adverse environmental impacts of the proposed development</p>

Before issue of an occupation certificate

55	<p>Occupation Certificate</p> <p>Compliance with all conditions in this section, and in prior sections of this consent, must be verified by the Principal Certifier prior to the issue of a final Occupation Certificate. The building must not be used until the Principal Certifier issues and Occupation Certificate.</p> <p>Condition reason: To ensure the construction complied with relevant legislation</p>
56	<p>Operational Plan of Management</p> <p>Before the issue of an occupation certificate the approved Plan of Management is to be amended and submitted to the Executive Director Planning and Environment Shellharbour City Council, for approval. The following requirements are to be included in the amended Plan of Management:</p> <ul style="list-style-type: none"> a. Length of time per hour pedestrian pathway is to be closed in accordance with the relevant condition of this notice, c. Process for reviewing plan of management 6 months after commencement of operation and submitting reviewed plan to Council for approval; a. Graffiti removal is to occur within 48 hours of reporting, d. Roles and responsibilities of the BMF operator and staff; e. Noise Management Plan to be prepared in accordance with the relevant condition of this notice, f. Community liaison and compliant procedure; and g. Waste collection procedure (i.e. daytime collection only). <p>The premises are to be managed in accordance with this plan of management in perpetuity.</p> <p>Condition reason: To minimise any possible adverse environmental impacts of the proposed development</p>
57	<p>Noise Management Plan</p> <p>Before the issue of an occupation certification a noise management plan is to be prepared in accordance with the requirements of condition 35 of the Environmental Protection Agency and submitted to the Executive Director Planning and Environment, Shellharbour City Council.</p> <p>Condition reason: To minimise any possible adverse environmental impacts of the proposed development</p>
58	<p>Verification of Waste Management</p> <p>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.</p> <p>Condition reason: To minimise any possible adverse environmental impacts of the proposed development</p>
59	<p>Acoustic Verification Report</p> <p>Before the issue of an occupation certificate, an acoustic verification report must be submitted to the Executive Director Planning and Environment Shellharbour City Council for approval.</p>

	<p>The report must be prepared by a suitably qualified acoustic consultant (being an employee of a member firm of the Association of Australasian Acoustical Consultants (AAAC), or a member of the Australian Acoustical Society).</p> <p>The verification report must confirm the following:</p> <ul style="list-style-type: none"> • All operational noise control measures as detailed within the acoustic report prepared for Development Application have been implemented; • All mechanical noise control measures as detailed within the acoustic report prepared for Development Application and the detailed design report prepared Construction Certificate have been implemented; and • Confirmation that noise from mechanical plant meets the requirements of table 1 as included in condition 25 of the General Terms of Approval issued by the Environmental Protection Agency dated 05.12.2024.
	<p>Condition Reason: To ensure the acoustic amenity of neighbours is adequately protected</p>
60	<p>Completion Of Landscape and Tree Works</p> <p>Before the issue of an occupation certificate, the principal certifier must be satisfied all landscape and tree-works have been completed in accordance with approved plans and documents and any relevant conditions of consent.</p> <p>These tree works are to include the 4 <i>Eucalyptus Robusta</i> as shown on the approved landscape plan located along Maritime Road.</p> <p>Condition reason: To minimise any possible adverse environmental impacts of the proposed development</p>
61	<p>Post-Construction Dilapidation Report</p> <p>Before the issue of an Occupation Certificate a post-construction dilapidation report must be prepared by a suitably qualified person, to the satisfaction of the Principal Certifier or Council, detailing whether:</p> <ol style="list-style-type: none"> a. after comparing the pre-construction dilapidation report to the post-construction dilapidation report required under this condition, there has been any structural damage to any adjoining buildings; and b. where there has been structural damage to any adjoining buildings, that is a result of the work approved under this development consent; and c. a copy of the post-construction dilapidation report must be provided to Council (where Council is not the principal certifier or a principal certifier is not required) and to the relevant adjoining property owner(s). <p>Condition reason: To minimise any possible adverse environmental impacts of the proposed development.</p>
62	<p>Repairs To Public Infrastructure</p> <p>Before the issue of an Occupation Certificate:</p> <ol style="list-style-type: none"> a. any public infrastructure damaged as a result of the carrying out of work approved under this consent (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) must be fully repaired to the written satisfaction, and at no cost to Council; or

	<p>b. if the works in (a) are not carried out to Council's satisfaction, Council may carry out the works required and the costs of any such works must be paid as directed by Council and in the first instance will be paid using the security deposit required to be paid under this consent.</p>
	<p>Condition reason: To minimise any possible adverse environmental impacts of the proposed development</p>
63	<p>Removal of Temporary Office</p>
	<p>Before the occupation certificate is issued the temporary office building and amenities are to be removed from site.</p>
	<p>Condition Reason: To ensure that the temporary structures on the site do not obstruct approved development.</p>
64	<p>Sydney Water – Section 73 Compliance Certificate</p>
	<p>A Section 73 Compliance Certificate under the <i>Sydney Water Act</i> must be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.</p>
	<p>Condition Reason: To minimise any possible adverse environmental impacts of the proposed development.</p>

Prior to issue of subdivision certificate
Not applicable

Occupation and ongoing use

65	<p>Operating Hours</p>
	<p>The approved days/hours of operation for the development shall be restricted to the following:</p> <ul style="list-style-type: none"> a. Monday-Saturday 7am – 6pm b. Sundays and Public Holidays 8am – 6pm
	<p>Unless otherwise agreed in writing by the Executive Director Planning and Environment Shellharbour City Council.</p>
	<p>Condition Reason: To minimise any possible adverse environmental impacts of the proposed development</p>
66	<p>Closure of Public Boardwalk</p>
	<p><i>The public boardwalk can be closed to allow the lifting and transport of boats and other marine related activities to and from the approved facility only.</i></p>
	<p><i>The public boardwalk can be closed for a maximum of 10 minutes at any one time. The boardwalk must remain open for at least the same length of time that it was closed following any closure unless this requirement is changed by the reviewed Operational Plan of Management approved by the Executive Director Planning and Environment Shellharbour City Council.</i></p>
	<p>Condition Reason: To minimise any possible adverse environmental impacts of the proposed development</p>
67	<p>Flood Emergency Response Plan</p>
	<p>A Flood Emergency Response Plan must be prepared. The Plan must be signed off by a practicing engineer with experience in Floodplain Risk Management. The Plan must detail;</p>

	<ul style="list-style-type: none"> a. local flood levels, depths, duration, timing, extents, building floor levels and their relationship to local flood levels, b. closest PMF refuge areas and safe evacuation routes (both internal and external to site), c. possibility of over floor flooding and expected depths, d. possibility of local roads being closed due to flooding, e. the need and capability for occupants to wade out or use a vehicle to escape rising flood water, f. access and egress availability for emergency services, g. consideration of local Emergency Plans and Council adopted Flood Study recommendations, h. Emergency service contact information (SES, Police, Ambulance, Hospital etc.). <p>The response plan is to be kept on site at all times within the BMF Office and updated as required.</p> <p>Condition reason: To ensure a relevant flood emergency response plan is available on site.</p>
68	<p>Building Use</p> <p>The development has been approved with the following uses as defined within the Shellharbour Local Environmental Plan 2013:</p> <ul style="list-style-type: none"> a. boat building and repair facility means any facility (including a building or other structure) used primarily for the construction, maintenance or repair of boats, whether or not including the storage, sale or hire of boats, but does not include a marina or boat shed b. commercial premises means any of the following— <ul style="list-style-type: none"> i. business premises, ii. office premises, iii. retail premises. <p>Approval is not given or implied to any other use under this consent.</p>
	<p>Condition Reason: To ensure the facility is operated in accordance with the relevant legislation and controls.</p>
69	<p>Retail Units</p> <p>The five retail units located on the upper ground floor and approved as part of this development are to be operated in conjunction with the lower ground floor workshops adjoining and not operated independently.</p> <p>Condition Reason: To ensure the facility is operated in accordance with the relevant legislation and controls.</p>
70	<p>Signage</p> <p>Before issue of an occupation certificate the signage identifying the alternative route for pedestrians whilst the public boardwalk is closed is to be installed.</p> <p>Condition reason: To ensure pedestrians can utilise the alternative route proposed.</p>
71	<p>Acoustic Compliance Assessment</p> <p>A validation report must be prepared by a suitably qualified acoustic consultant (being an employee of a member firm of the Association of Australasian Acoustical Consultants (AAAC), or a member of the Australian Acoustical Society) within three months after the commencement of operations and submitted to Council within 28 days of noise measurements.</p>

	<p>The report must demonstrate and certify that operational noise emission from the development, satisfies the project criteria as detailed within the approved acoustic report prepared for Development Application.</p> <p>The report must demonstrate and certify that all noise emission from the development, satisfies the project criteria as detailed within this consent.</p> <p>Should the project criteria be exceeded, any recommendations contained in the validation report must to be implemented in accordance with the report to the satisfaction of the Executive Director Planning and Environment Shellharbour City Council within 1 month of Council giving their approval for the recommendations.</p> <p>Condition Reason: To minimise any possible adverse environmental impacts of the proposed development</p>
72	<p>Air Quality Mitigation Measures</p> <p>The facility is to be managed and operated in accordance with the recommendations of the approved Air Quality Impact Assessment prepared by Advisian dated 10.08.2023.</p> <p>Condition reason: To minimise any possible adverse environmental impacts of the development.</p>
73	<p>Street Tree Bond Refund</p> <p>The street tree bond will be refunded following a six month maintenance period commencing from the date of the issue of the Occupation Certificate, provided the street trees remain in a satisfactory condition. In the event that any street trees are found damaged, dying or removed, Council will have the option to retain the whole or part of the bond. The developer/Certifying Authority must notify Council for a reinspection of the street tree/s.</p> <p>Condition reason: To minimise any possible adverse environmental impacts of the proposed development.</p>

Other Approvals

Endeavour Energy

Development Application and Planning Proposal Review NSW Planning Portal Concurrence and Referral
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Authority	Authority's Reference	Agency Concurrence and Referral	Authority Contact	Authority Notification	Submission Due	Submission Made
Shellharbour City Council	DA0459/2023	CNR-62448	Madeline Cartwright	15/03/2024	5/04/2024	17/03/2024

Address	Land Title
15 MARITIME DRIVE SHELL COVE 2529	Lot 1061 DP 1253523

Scope of Development Application or Planning Proposal
Construction of a dry boat storage facility, boat maintenance facility, workshop building and ancillary office building.

Endeavour Energy's G/Net master facility model indicates:				
Within or adjacent to the site the electrical network used in the distribution / supply of electricity are:				
Electricity Infrastructure / Apparatus	Statutory allocation (road verge / roadway*)	Easement (or other form of property tenure**)	Protected works***	Freehold (adjoining or nearby)
Overhead Power Lines <input type="checkbox"/> Low voltage <input type="checkbox"/> High voltage <input type="checkbox"/> Transmission voltage <input type="checkbox"/> Pole / tower	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Underground Cables <input checked="" type="checkbox"/> Low voltage <input type="checkbox"/> High voltage <input type="checkbox"/> Transmission voltage <input checked="" type="checkbox"/> Streetlight / pillar	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Substation <input type="checkbox"/> Pole mounted <input type="checkbox"/> Padmount <input type="checkbox"/> Indoor <input type="checkbox"/> Zone <input type="checkbox"/> Transmission	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Other:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Low voltage extra low voltage up to 1,000 volts alternating current (a.c.).
 High voltage above 1,000 volts a.c and less than 33,000 volts a.c. [33 kilovolts (kV)].
 Transmission voltage 33 kV up to 132,000 volts a.c. (132 kV).
 *Rights provided in a public road or reserve. The allocation depends on the classification and date of roadway dedication.
 ** Other form of property tenure includes but is not limited to restriction, covenant, lease, licence etc.
 ***Protected works under Section 53 'Protection of certain electricity works' of the *Electricity Supply Act 1995* (NSW).
 Other: provide detail of electricity infrastructure / apparatus.



Endeavour Energy
 ABN 11 247 365 823
 T 133 718
 Level 40-42, 8 Parramatta Square,
 10 Darcy Street Parramatta NSW 2150
 PO Box 811, Seven Hills NSW 1730
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Relevant / applicable clause numbers from Endeavour Energy's standard conditions for Development Application and Planning Proposal Review indicated by ☒ .

Condition	Advice	Clause No.	Issue	Detail
<input type="checkbox"/>	<input type="checkbox"/>	1	Adjoining Sites	Adjoining or nearby development / use should be compatible with the use of Endeavour Energy's sites.
<input type="checkbox"/>	<input type="checkbox"/>	2	Asbestos	Area identified or suspected of having asbestos or asbestos containing materials (ACM) present in the electricity network.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	3	Asset Planning	Applicants should not assume adequate supply is immediately available to facilitate their proposed development.
<input type="checkbox"/>	<input type="checkbox"/>	4	Asset Relocation	Application must be made for an asset relocation / removal to determine possible solutions to the developer's requirements.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	5	Before You Dig	Before commencing any underground activity the applicant must obtain advice from the Before You Dig service.
<input type="checkbox"/>	<input type="checkbox"/>	6	Bush Fire	Risk needs to be managed to maintain the safety of customers and the communities served by the network.
<input type="checkbox"/>	<input type="checkbox"/>	7	Construction Management	Integrity of electricity infrastructure must be maintained and not impacted by vehicle / plant operation, excessive loads, vibration, dust or moisture penetration.
<input type="checkbox"/>	<input type="checkbox"/>	8	Contamination	Remediation may be required of soils or surfaces impacted by various forms of electricity infrastructure.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	9	Demolition	All electricity infrastructure shall be regarded as live and care must be taken to not interfere with any part of the electricity network.
<input type="checkbox"/>	<input type="checkbox"/>	10	Dispensation	If a proposal is not compliant with Endeavour Energy's engineering documents or standards, the applicant must request a dispensation.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	11	Driveways	For public / road safety and to reduce the risk of vehicle impact, the distance of driveways from electricity infrastructure should be maximised.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	12	Earthing	The construction of any building or structure connected to or in close proximity to the electrical network must be properly earthed.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	13	Easement Management	Preference is for no activities to occur in easements and they must adhere to minimum safety requirements.
<input type="checkbox"/>	<input type="checkbox"/>	14	Easement Release	No easement is redundant or obsolete until it is released having regard to risks to its network, commercial and community interests.
<input type="checkbox"/>	<input type="checkbox"/>	15	Easement Subdivision	The incorporation of easements into to multiple / privately owned lots is generally not supported.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	16	Emergency Contact	Endeavour Energy's emergency contact number 131 003 should be included in any relevant risk and safety management plan.
<input type="checkbox"/>	<input type="checkbox"/>	17	Excavation	The integrity of the nearby electricity infrastructure shall not be placed at risk by the carrying out of excavation work.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	18	Flooding	Electricity infrastructure should not be subject to flood inundation or stormwater runoff.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	19	Hazardous Environment	Electricity infrastructure can be susceptible to hazard sources or in some situations be regarded as a hazardous source.
<input type="checkbox"/>	<input type="checkbox"/>	20	Look up and Live	Before commencing any activity near overhead power lines the applicant must obtain advice from the Look Up and Live service.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	21	Modifications	Amendments can impact on electricity load and the contestable works required to facilitate the proposed development.
<input type="checkbox"/>	<input type="checkbox"/>	22	Network Access	Access to the electricity infrastructure may be required at any time particularly in the event of an emergency.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	23	Network Asset Design	Design electricity infrastructure for safety and environmental compliance consistent with safe design lifecycle principles.

Condition	Advice	Clause No.	Issue	Detail
<input checked="" type="checkbox"/>	<input type="checkbox"/>	24	Network Connection	Applicants will need to submit an appropriate application based on the maximum demand for electricity for connection of load.
<input type="checkbox"/>	<input type="checkbox"/>	25	Protected Works	Electricity infrastructure without an easement is deemed to be lawful for all purposes under Section 53 'Protection of certain electricity works' of the <i>Electricity Supply Act 1995</i> (NSW).
<input type="checkbox"/>	<input checked="" type="checkbox"/>	26	Prudent Avoidance	Development should avert the possible risk to health from exposure to emissions from electricity infrastructure such as electric and magnetic fields (EMF) and noise.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	27	Public Safety	Public safety training resources are available to help general public / workers understand the risk and how to work safely near electricity infrastructure.
<input type="checkbox"/>	<input type="checkbox"/>	28	Removal of Electricity	Permission is required to remove service / metering and must be performed by an Accredited Service Provider.
<input type="checkbox"/>	<input type="checkbox"/>	29	Safety Clearances	Any building or structure must comply with the minimum safe distances / clearances for the applicable voltage/s of the overhead power lines.
<input type="checkbox"/>	<input type="checkbox"/>	30	Security / Climb Points	Minimum buffers appropriate to the electricity infrastructure being protected need to be provided to avoid the creation of climb points.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	31	Service Conductors	Low voltage service conductors and customer connection points must comply with the 'Service and Installation Rules of NSW'.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	32	Solar / Generation	The performance of the generation system and its effects on the network and other connected customers needs to be assessed.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	33	Streetlighting	Streetlighting should be reviewed and if necessary upgraded to suit any increase in both vehicular and pedestrian traffic.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	34	Sustainability	Reducing greenhouse gas emissions and helping customers save on their energy consumption and costs through new initiatives and projects to adopt sustainable energy technologies.
<input type="checkbox"/>	<input type="checkbox"/>	35	Swimming Pools	Whenever water and electricity are in close proximity, extra care and awareness is required.
<input type="checkbox"/>	<input type="checkbox"/>	36	Telecommunications	Address the risks associated with poor communications services to support the vital electricity supply network Infrastructure.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	37	Vegetation Management	Landscaping that interferes with electricity infrastructure is a potential safety risk and may result in the interruption of supply.
Decision				Approve (with conditions)

Environmental Services Team

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Parramatta NSW 2150.

Dharug/Wiradjuri/Dharawal/Gundungurra/Yuin Country

endeavourenergy.com.au |    



**Endeavour
Energy**

**POWER
together**



Endeavour Energy respectfully acknowledges the Traditional Custodians on whose lands we live, work, and operate and their Elders past and present.

Reason(s) for Conditions or Objection (If applicable)

- There is no existing low voltage service conductor / customer connection point to the site.

There is an easement immediately adjacent to the south eastern corner of the site for low voltage underground cables coming from Harbour Boulevard to a low voltage pillar from which a customer connection point could be provided.

The easement appears to be a temporary arrangement and may be able to be released once the extension of Maritime Road occurs and is dedicated as a public road.

- All encroachments, activities and / or works (including subdivision and even if not part of the Development Application) whether temporary or permanent within or affecting an easement, restriction, right of access or protected works (other than those approved / certified by Endeavour Energy's Customer Network Solutions Branch as part of an enquiry / application for load or asset relocation project) need to be referred to Endeavour Energy's Easements Officers for assessment and possible approval if they meet the minimum safety requirements and controls. However please note that this does not constitute or imply the granting of approval by Endeavour Energy to any or all of the proposed encroachments and / or activities.

For further information please refer to the attached copies of Endeavour Energy's:

- General Restrictions for Underground Cables.
- Mains Design Instruction MDI 0044 'Easements and Property Tenure Rights' which deals with activities / encroachments within easements.

- To ensure an adequate connection, the applicant will need to engage an Accredited Service Provider (ASP) of an appropriate level and class of accreditation to assess the electricity load and the proposed method of supply for the development.
- An extension or augmentation of the existing electricity distribution network may be required. Whilst there are distribution substations in the area which are likely to have some spare capacity, it is not unlimited and may not be sufficient to provide for the additional load from the proposed development.

Other factors such as the size and rating / load on the conductors and voltage drop (which can affect the quality of supply particularly with long conductor runs) etc. need to be assessed. However the extent of any works required will not be determined until the final load assessment is completed.

- Any required padmount substation will need to be located within the property (in a suitable and accessible location) and be protected (including any associated cabling not located within a public road / reserve) with an appropriate form of property tenure as detailed in the attached copy of Endeavour Energy's 'Land Interest Guidelines For Network Connection'.

Generally it is the Level 3 Accredited Service Provider's (ASP) responsibility (engaged by the developer) to make sure substation location and design complies with Endeavour Energy's standards the suitability of access, safety clearances, fire ratings, flooding etc. If the substation does not comply with Endeavour Energy's standards, the applicant must request a dispensation.

For further information please also refer to the attached copies of Endeavour Energy's:

- Mains Design Instruction MDI 0044 'Easements and Property Tenure Rights'.
- Guide to Fencing, Retaining Walls and Maintenance Around Padmount Substations.

- The Shell Cove - Precinct A Proposed Utility, Sewer & Water Services Strategy prepared by Arcadis dated 24 November 2017 includes the following advice.

5.2.3 Electrical supply to the proposed development

The method of supply for Precinct A is as follows:

- All Precinct A developments proposed under this Development Application can be supplied from the proposed underground HV network (feeder SHD2/B) on Harbour Boulevard. Extension of this feeder will be required from the B1/C1 Stage 3 development along with minor HV network augmentation to supply the proposed substations in Precinct A. The final Precinct A electrical design is likely to include:
 - 3 pad mount substations (arrangement of substations to be confirmed during detailed design) including appropriate easements within private land,
 - Reticulation of HV and LV cabling along roadways,
 - Spare HV and LV conduit along roadways,
 - Street lighting.

Figure K contains an indicative electrical reticulation layout for the Precinct A development. The location and need for the three substations will be confirmed during detailed design. The 3rd substation located in the boat ramp carpark is most-likely required to service the Boat Storage / Maintenance facility. Further investigation will be required for the boat storage and maintenance facility to determine the electrical maximum loading information with regards to these facilities to determine whether this 3rd substation is needed, this investigation will be undertaken during the detailed design stage, once the layout and require electrical infrastructure can be confirmed.

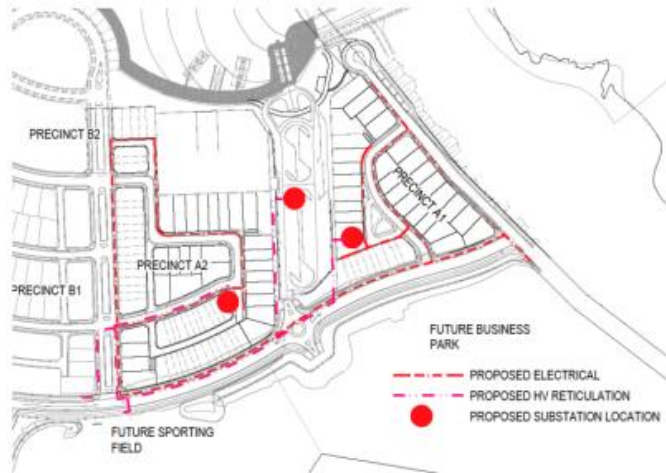
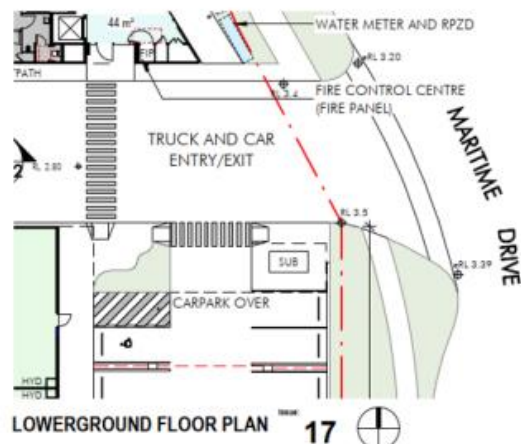


Figure K: Proposed Precinct A Concept Electrical Layout Plan

In comparing Figure K above to the below Site Plan from Endeavour Energy's G/Net Master Facility Model, two of the three padmount substations are now in existence. However the third padmount substation and the required 11 kV high voltage underground feeder closest to the subject site has not been constructed.

- The following extract of the Lower Ground Floor Pan shows provision for a 'SUB' on the site.



- Driveways should be designed to increase the separation to the any electricity infrastructure as much as reasonably possible.
- Irrespective of the class / division and the quantities, any dangerous goods whether combustible and / or flammable should not be stored near electricity infrastructure and increasing the separation distance as far as reasonably possible is recommended.
- The planting of large / deep rooted trees near electricity infrastructure is opposed by Endeavour Energy. Existing trees which are of low ecological significance in proximity of electricity infrastructure should be removed and if necessary replaced by an alternative smaller planting. The landscape designer will need to ensure any planting near electricity infrastructure achieves Endeavour Energy's vegetation management requirements.

No planting of trees is allowed in the easement for a padmount substation. Screening vegetation around a padmount substation should be planted a minimum distance of 800mm plus half of the mature canopy width from the substation easement and have shallow / non-invasive roots. This is to avoid trees growing over the easement as falling branches may damage the cubicle and tree roots the underground cables. All vegetation is to be maintained in such a manner that it will allow unrestricted access by electrical workers to the substation easement all times.

Endeavour Energy's G/Net master facility model.

The advice provided regarding the extent of the electricity infrastructure on or near the site is based on a desk top review of Endeavour Energy's G/Net master facility model. This is a computer based geographic information system which holds the data on and is used to map the electricity network. The location, extent and type of any electricity infrastructure, boundaries etc. shown on the plan is indicative only. In addition it must be recognised that the electricity network is constantly extended, augmented and modified and there is a delay from the completion and commissioning of these works until their capture in the model. It only shows the Endeavour Energy electricity network and does not show electricity infrastructure belonging to other authorities or customers owned electrical equipment beyond the customer connection point / point of supply to the property.

Easement (or other form of property tenure).

Title searches will confirm the current owners of a property and shows any registered interests affecting the property such as an easement. Not all interests eg. short term leases and licences are registered on the title. Not all easements for electricity infrastructure will necessarily benefit Endeavour Energy eg. there may be interallotment / easements appurtenant to the land particularly for low voltage service conductors / customer connections. For further advice please refer to Endeavour Energy's:

- Land Interest Guidelines for Network Connection Works.
- Mains Design Instruction MDI 0044 'Easements and Property Tenure Rights'.

Condition or Advice

With Endeavour Energy's Development Application and Planning Proposal Review process / system the intent of the 'Standard Conditions' being indicated as either a 'Condition' or 'Advice' essentially depends on the risk associated with the matter. If the matter is one that is likely or very likely to be an issue / needed to be addressed by the applicant and may require corrective action, then it is marked as a 'Condition'. If the matter is less likely and the consequences of the applicant not addressing it are lower or can be readily rectified, then it is marked as 'Advice'. If the matter is considered to be not applicable / relevant then it is not marked as either.

For example, the obtaining advice from the Before You Dig service in accordance with the requirements of the *Electricity Supply Act 1995* (NSW) and associated Regulations is a standard / regulatory requirement and will be generally indicated as 'Condition'. If the Site Plan from Endeavour Energy's G/Net Master Facility Model indicates there is no underground electricity infrastructure it will be indicated as 'Advice' as a precaution and in regard to any other underground utilities.

Not all of the matters may be directly or immediately relevant or significant to the Development Application or Planning Proposal. However, Endeavour Energy's preference is to alert proponents / applicants of the potential matters that may arise should development within closer proximity of the existing and/or required electricity infrastructure needed to facilitate the proposed development on or in the vicinity of the site occur. Even if a matter is not indicated a 'Condition' or 'Advice', applicants are encouraged to review all of the 'Standard Conditions' as some matters may not have been evident from the information provided with the Development Application and of which the applicant may have additional knowledge.

Decision

In the NSW Planning Portal for the 'Agency response', as Endeavour Energy is not a concurring authority under the provision of the *Environmental Planning and Assessment Act 1979* (NSW), it does not 'Approve' or 'Refuse' a Development Application in the Portal. It will 'Approve (with conditions)' (which may 'Object' in the submission and detail the matters requiring resolution), or if all the matters in the submission are marked as for 'Advice', the outcome of the assessment will also be 'Advice'.

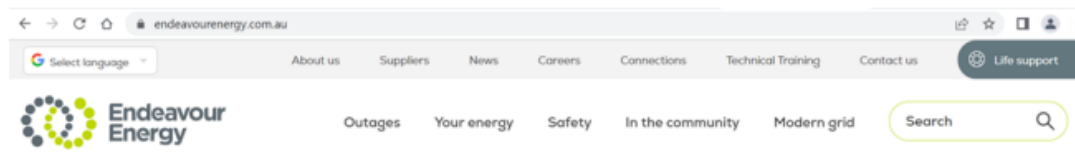
Objection

Endeavour Energy may object to a Development Application if the conditions may substantially impact the proposed development or regarded as a significant risk to the electricity distribution network. Although Council may be able to appropriately condition these matters, Endeavour Energy's recommendation is to address the matters prior to Council granting any consent. This can assist in avoiding the need to later seek modification of an approved Development Application.

Please note Endeavour Energy can only assess the Development Application based on the information provided by the applicant and Council. Due to time and resource constraints it is not possible to refer all development application notifications to the relevant internal stakeholders for review and advice or to request additional information from the applicant or Council. Applicants should be providing proper detailed plans of the electricity infrastructure / easements on or near the site and address the potential impacts of the proposed development thereon in the Statement of Environmental Effects. The provision of inadequate detail may result in Endeavour Energy objecting to the Development Application.

Further Advice

The 'Standard Conditions' include additional advice and contact details and further information is also available on Endeavour Energy's website at <https://www.endeavourenergy.com.au/> .



To resolve any objection or to seek further advice the following are the main contacts and can be reached by calling Endeavour Energy via Head Office enquiries on business days from 9am - 4:30pm on telephone: 133 718. For other matters the contact details are included in Endeavour Energy's standard conditions for Development Application and Planning Proposal Review. Whilst the Environmental Services Team are able to provide general advice, the resolution / approval of any matter/s rests with the relevant contact related to the matter/s.

Branch / Section	Matters	Email
Customer Network Solutions	Electricity supply or asset relocation who are responsible for managing the conditions of supply with the applicant and their Accredited Service Provider (ASP).	CWAdmin@endeavourenergy.com.au
Easements Officers	Easement management or protected works / assets.	Easements@endeavourenergy.com.au
Property	Property tenure eg. the creation or release of easements.	network_property@endeavourenergy.com.au
Field Operations (to the relevant Field Service Centre).	Safety advice for building or working near electrical assets in public areas (including zone and transmission substations).	Construction.Works@endeavourenergy.com.au

Please note Endeavour Energy's above contacts do not have access to the NSW Planning Portal. To resolve any matters direct contact should be made with the responsible contact. This will avoid double handling and possible delays in responding to the applicant / Council.

Accredited Service Providers

The Accredited Service Provider (ASP) scheme accredits organisations to perform contestable work on the NSW electricity distribution network. Contestable works are works that are required for the electricity distribution network provider to supply the load in the power lines where a new or altered connection is being requested.

Endeavour Energy is urging applicants / customers to engage with an ASP prior to finalising plans to in order to assess and incorporate any required electricity infrastructure as well as addressing safety issues such as safety clearances. In so doing the consideration can also be given to its impact on the other aspects of the proposed development. This can assist in avoiding the making of amendments to the plan or possibly the need to later seek modification of an approved development application.

Details of the ASP Scheme which accredits organisations to perform contestable work on the NSW electricity distribution network are available via the following link to the Energy NSW website at <https://www.energysaver.nsw.gov.au/get-energy-smart/dealing-energy-providers/installing-or-altering-your-electricity-service> .

Duty of Care

All individuals have a duty of care they must observe when working in the vicinity of electricity infrastructure. Before you do anything:

- 1) Contact Before You Dig and Look Up and Live to obtain the details of the electricity infrastructure on or near the site noting they are a guide only to what might be in the area and may not be entirely accurate.
- 2) Comply with the conditions and consider the advice provided above.
- 3) If needed contact Endeavour Energy on 133 718 or the contacts provided above for assistance.
- 4) **DO NOT** attempt any work near electricity infrastructure until all required approvals and safety measures are in place.
- 5) Proceed only if you have satisfied yourself it is safe.
- 6) Always remember, even the briefest contact with electricity at any voltage can have serious consequences to a person's health and safety and can be fatal.

General Terms of Approval

Notice No: 1639002



General Manager
Shellharbour City Council
76 Cygnet Avenue
SHELLHARBOUR CITY CENTRE NSW 2529

Attention: Madeline Cartwright
By email: madeline.cartwright@shellharbour.nsw.gov.au

Notice Number 1639002
File Number DOC23/993358-37
Date 05-Dec-2024

**Integrated Development DA0459/2023 – General Terms of Approval
Construction of Dry Boat Workshop, Maintenance & Office Building.
Issued pursuant to Section 4.46 Environmental Planning and Assessment Act 1979**

I refer to the request to the NSW Environment Protection Authority (EPA) dated 14 November 2023, requesting advice for Concurrence and Referral application (CNR-62448) for a new Boat Maintenance Facility (BMF) (the proposal), located at the Shell Cove Boat Harbour. The proposal was lodged by Australand Corporation (NSW) Pty Ltd (the applicant) on behalf of Shellharbour City Council (Council).

Environment Protection Licence No. 12426 (EPL 12426) held by Marine Holdings Australia Pty Ltd (the licensee) covers the Shell Cove Boat Harbour (the premises), including the proposed BMF.

The EPA has requested additional information on the proposal on several occasions, with the most recent EPA request dated 2 August 2024. In response to that request, the applicant provided updated information on 17 October 2024. Considering the extended process to date, the EPA provided draft conditions to the applicant on 11 November 2024 and subsequently met with the applicant, Council and the licensee on 25 November to discuss those draft conditions. The EPA has considered all the updated information and determined that it is able to issue General Terms of Approval for the proposed application. The General Terms of Approval for the proposal are provided in Attachment B.

While the EPA has provided recommended conditions, they should be viewed in context with the summary in Attachment A.

These General Terms of Approval relate to the development as proposed in the documents and information currently provided to the EPA. If the development is modified either by the applicant prior to the granting of consent or as a result of the conditions proposed to be attached to the consent, it will be necessary to consult with the EPA about the changes before the consent is issued. This will enable the EPA to determine whether its General Terms of Approval need to be modified.

If you have any questions or wish to discuss this matter, further please contact Chris Kelly on 4224 4118.

Yours sincerely

General Terms of Approval

Notice No: 1639002



A handwritten signature in blue ink, appearing to read 'Greg Newman', positioned above a horizontal dotted line.

Greg Newman

Unit Head

Environment Protection Authority

(by Delegation)

General Terms of Approval



Notice No: 1639002

Attachment A – General Terms of Approval

GENERAL

The development must be undertaken in accordance with the Protection of the Environment Operations (POEO) Act 1997 and associated regulations as well as EPA Environment Protection Licence (EPL) 12426.

Should the development be approved the applicant will be required to make a separate application to the EPA to vary the existing licence.

NOISE

The EPA has recommended licence conditions; however, they should be viewed in context with the summary provided below.

Significant exceedances of Noise Policy for Industry (NPfI – EPA, 2017) project noise trigger levels (PNTLs) have been predicted at constructed/approved receivers and vacant lots planned for development.

The EPA acknowledges that:

- this proposal was developed as part of a precinct planning approach which made residential receivers share the burden of noise mitigation.
- the proponent has considered feasible and reasonable at-source and path mitigation.
- even with these measures in place, significant residual impacts are predicted to occur at vacant lot locations planned for development; and at receivers that have been constructed; or had their DA approved.

Noise levels at the approved/constructed receivers (Lot 1021, Lot 1022, and the Nautilus Apartments) are predicted to exceed the PNTLs by 5dB but appear to have had at-property acoustic mitigation considered in their design.

- The NIA states that Lots 1021 and 1022 have conditions in their respective Notices of Determination which require mechanical ventilation to allow windows to be closed. This receiver-based treatment correlates with example treatment outlined in the NPfI for a marginal exceedance ($\geq 5\text{dB}$ above PNTL and $<$ recommended amenity noise level).
- The NIA states that a separate impact assessment for the Nautilus Apartments included a recommendation to include 10.38mm laminated glazing with 'acoustic' seals on external facades. While this correlates with example receiver-based treatment outlined in the NPfI for a moderate exceedance ($\geq 5\text{dB}$ above PNTL and $>$ recommended amenity noise level), the NIA does not identify, or provide, a statutory instrument which requires this construction. The EPA notes that this would also require mechanical ventilation to be effective (by allowing occupants to close windows), however this has not been identified in the NIA.

The EPA notes that while these receiver-based treatments appear appropriate, it can't confirm the effectiveness of the actual implementation. If at-receiver treatment is not appropriately conditioned or implemented, there is a risk the noise impacts may not be suitably mitigated.

General Terms of Approval

Notice No: 1639002



The NIA has also predicted significant exceedances (8-9dB above the PNTL) at properties that the EPA understands are yet to be granted development approval (Lot 6604 and Precinct H). While the EPA can't provide noise limits for receivers which have not had receiver-based mitigation finalised, we have provided conditions to regulate on-site activities. However, Council would need to ensure appropriate receiver-based controls (i.e. façade and glazing design, mechanical ventilation) are designed, conditioned, and implemented to ensure impacts to internal spaces are mitigated.

While the EPA has recommended conditions, it has identified the following considerations.

- Predicted noise levels assume that high impact activities are only used for a short period of time (e.g. pressure blasting for only 3 minutes out of every 15 minutes). If these activities occur for longer over any 15-minute period, there is a risk that noise from the premises will exceed the noise limits.
- Mechanical plant has not been included in the NIA. The EPA acknowledges that while mechanical plant noise can often be readily mitigated through appropriate design, without assessment we cannot appropriately consider its noise impact or risk in our advice.

It is recommended Shellharbour City Council:

- determine whether the significant residual impacts at lots planned for development allow the planning intent for the area to be achieved.
- effectively manage and condition at-receiver treatment for planned developments.
- confirm the implementation of mitigation at constructed receivers to ensure that noise impacts from the premises are appropriately controlled.

These will be key in controlling impacts, as the EPA does not have a role in ensuring that receivers are appropriately approved and constructed in a manner that makes them compatible with noise producing aspects of the Shell Cove development.

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Attachment B – General Terms of Approval

Administrative conditions

Information supplied to the EPA

Except as expressly provided by these general terms of approval, works and activities **must** be carried out in accordance with the proposal contained in:

- the development application DA0459/2023 submitted to Shellharbour City Council on 3rd November 2023 (including all appendices)
- the Environmental Impact Statement for the Boatyard, 15 Maritime Drive, Shell Cove (Project No. 2190158) by Ethos Urban dated 18th October 2023
- The Boatyard DA0459/2023 Response to Request for Further Information by Ethos Urban dated 25th March 2024 (including all appendices).
- The Boatyard - Boat Maintenance Facility DA Noise Assessment (NIA) (doc ref: 256688 AC42, dated 17 October 2024).

Fit and Proper Person

1. The applicant must, in the opinion of the EPA, be a fit and proper person to hold a licence under the Protection of the Environment Operations Act 1997, having regard to the matters in s.83 of that Act.

WATER

2. Except as may be expressly provided by a licence under the *Protection of the Environment Operations Act 1997* in relation of the development, Section 120 of the *Protection of the Environment Operations Act 1997* must be complied with in, and in connection with, the carrying out of the development.
3. The applicant must ensure the premises is designed to ensure there is separation between clean and contaminated water at all times.
4. The applicant must ensure that potentially contaminated stormwater at the premises is managed in a manner that will prevent pollution of waters.
5. Contaminated water from premises work areas, including but not limited to the jet wash area, wash bays and work bays, must be discharged to sewer, unless otherwise permitted by another general condition of approval. The applicant is responsible for obtaining any required discharge approvals from the relevant Authorities.
6. Unless otherwise agreed to in writing by the EPA, the applicant must ensure that sewage and greywater, that is associated with vessels at the premises, is discharged to sewer. The applicant is responsible for obtaining any required discharge approvals from the relevant Authorities.
7. The licensee must maintain and operate a First Flush Stormwater Collection and Treatment System to manage first flush rainwater and treat water generated through vessel maintenance activities on site. The system must comprise a first flush collection, wastewater collection, and water treatment system.

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- All records of liquid waste pump out / collections must be kept by the licensee for 3 years and be made available to the EPA on request.

Stormwater/sediment control - Construction Phase

- An Soil and Water Management Plan (SWMP) must be prepared and implemented. The plan must describe the measures that will be employed to minimise soil erosion and the discharge of sediment and other pollutants to lands and/or waters during construction activities. The SWMP should be prepared in accordance with the requirements for such plans outlined in *Managing Urban Stormwater: Soils and Construction* (available from the Department of Housing).

Stormwater/sediment control - Operation Phase

- A Stormwater Management Scheme must be prepared for the development and must be implemented. Implementation of the Scheme must mitigate the impacts of stormwater run-off from and within the premises following the completion of construction activities. The Scheme should be consistent with the Stormwater Management Plan for the catchment. Where a Stormwater Management Plan has not yet been prepared the Scheme should be consistent with the guidance contained in *Managing Urban Stormwater: Council Handbook* (available from the EPA).

NOISE

Construction Activities

Hours of Construction

- Construction work at the premises must only be conducted on:
 - Monday to Friday between 7:00am to 6:00pm;
 - Saturday between 8:00am to 1:00pm; and
 - at no time on Sundays and Public Holidays.
- This condition does not apply to the delivery of material outside the hours of operation described, if that delivery is required by police or other authorities for safety reasons; and/or the operation or personnel or equipment are endangered. In such circumstances, prior notification is provided to the EPA and affected residents as soon as possible, or within a reasonable period in the case of emergency.
- All works and activities must be undertaken in a manner that will minimise noise and vibration impacts on noise sensitive receivers.
- Where a noise limit has not been prescribed, all construction works occurring on the premises must be conducted in a manner that will not cause offensive noise.

Construction Noise and Vibration Management Plan

- A quantitative Construction Noise and Vibration Management Plan (CNVMP) must be prepared by a suitably qualified person and provided prior to the commencement of construction works. The CNVMP should be approved by Council prior to commencement of construction. The CNVMP must also include the following details:

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- a. the specific construction equipment to be used and predicted noise impacts (including concurrent operation).
 - b. all reasonable and feasible noise mitigation and management measures to minimise noise impacts to the surrounding sensitive receivers, including where required, reductions at the source, mechanical plant substitution, quieter processes, plant isolation, engineered mitigation controls, controls at the receiver, and respite periods, and
 - c. the effectiveness of proposed controls to reduce noise impacts on sensitive receivers
16. All reasonable and feasible mitigation and management measures identified to minimise noise impacts to sensitive receivers must be adopted during construction activities.

Operational Activities

Hours of Operation

17. All operational activities at the premises must only be conducted between:
- 7 am to 6 pm Monday to Saturday; and
 - 8 am to 6 pm on Sundays and Public Holidays.
18. Work on Sundays and Public Holidays must not include high noise Workshop activities.
19. Work on Sundays and Public Holidays must not include high noise activities, other than the noise associated with: the process of launching or retrieval of vessels for the Dry Boat Storage; or travel lift operation.
20. All operations at the premises must be undertaken in a manner that will minimise noise and vibration impacts on noise sensitive receivers.

Limit Conditions

21. The sound insulation performance of the Dry Boat Storage, Washbay, and Workbay walls, roof, and roller doors must meet, at minimum, the transmission loss outlined in Table 24 of *The Boatyard - Boat Maintenance Facility DA Noise Assessment Reference: 256688 AC42 v7, dated 17 October 2024*.
22. All high noise activities, including but not limited to any power and pneumatic tools, hammering or similar high noise generating activity, undertaken within the BMF Workshop, Dry Boat Storage, and Workshops, must be conducted with roller doors closed where possible.
23. Any activities conducted outside at the premises must be undertaken in accordance with *Operating Conditions* within this advice.
24. Audible reversing beepers fitted to mobile plant at the premises must:
- be of the broadband alarm type (ie. "squawker" alarm) or similar; and
 - not be pulsed tonal alarm type (ie. "beeper" alarm); and
 - comply with any requirements of relevant Occupational Health and Safety legislation.

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25. Noise generated at the premises must not exceed the noise limits at the times and locations in the table below. The locations referred to in the table below are indicated by Figure 4 and Figure 5 of *The Boatyard - Boat Maintenance Facility DA Noise Assessment Reference: 256688 AC42 v7, dated 17 October 2024*.

Table 1

Location	Noise Limits in dB(A)
	Day
	L _{Aeq} (15 minute)
Lot 1021	47
Lot 1022	48
Nautilus Apartments	48

26. For the purposes of Table 1, day means the period from 7am to 6pm Monday to Saturday; and the period from 8am to 6pm Sunday and public holidays.
27. For the purposes of noise-enhancing meteorological conditions:
- The noise limits set out in Table 1 apply under the following meteorological conditions:
 - Stability Categories A, B, C and D with wind speeds up to and including 3m/s at 10m above ground level.
 - For those meteorological conditions not referred to in (a) of this condition, the noise limits that apply are the noise limits in Table 1 plus 5dB.
 - The meteorological conditions are to be determined from meteorological data obtained from the meteorological weather station identified as Bureau of Meteorology AWS at Kiama (Station ID: 068242)
 - Stability category shall be determined using the following method from Fact Sheet D of the *Noise Policy for Industry* (NSW EPA, 2017): Use of sigma-theta data (section D1.4).
27. To assess compliance with the L_{Aeq}(15 minutes) limits in Table 1 and the meteorological conditions above, the noise measurement equipment must be located:
- approximately on the property boundary, where any residence is situated 30 metres or less from the property boundary closest to premises; or where applicable,
 - in an area within 30 metres of a residence façade, but not closer than 3 metres where any residence on the property is situated more than 30 metres from the property boundary closest to the premises; or, where applicable,
 - at any other location identified in Table 1, or
 - at the reasonably most affected point at a location where there is no residence at the location.
28. A non-compliance of conditions Table 1 and the meteorological conditions will still occur where noise generated from the premises is measured in excess of the noise limit at a point other than the reasonably most affected point at the locations referred to in the condition to assess compliance.

NOTE: The reasonably most affected point is a point at a location or within an area at a location experiencing or expected to experience the highest sound pressure level from the premises.

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29. For the purpose of determining the noise generated from the premises, the modifying factor corrections in Table C1 in Fact Sheet C of the *Noise Policy for Industry* (NSW EPA, 2017) may be applied, if appropriate, to the noise measurements by the noise monitoring equipment.
30. Noise measurements must not be undertaken where rain or wind speed at microphone level will affect the acquisition of valid measurements.

Reporting Conditions

33. Unless otherwise agreed in writing by the EPA, attended noise monitoring must be undertaken in accordance with the assess compliance condition and must:
- occur at each location specified in Table 1;
 - occur within the first year of operation;
 - occur during day time operations as defined in the *Noise Policy for Industry* for a minimum of 1.5 hours;
 - occur for three consecutive operating days.
34. A noise compliance assessment report must be submitted to the EPA within 30 days of the completion of the monitoring. The assessment must be prepared by a competent person and include:
- an assessment of compliance with noise limits presented in Table 1 and the meteorological conditions; and
 - an outline of any management actions taken within the monitoring period to address any exceedences of the limits contained in Table 1 and the meteorological conditions; and
 - where exceedences of noise limits are identified the report must identify the cause and corrective and preventative actions implemented and/or proposed to ensure compliance with the noise limits

Note: Ongoing noise monitoring requirements will be determined based on the outcome of the initial noise compliance assessment report.

34. Subject to any express provision to the contrary in this licence, measurement and analysis of noise required by this licence must be done in accordance with the *Approved Methods for the Measurement and Analysis of Environmental Noise in NSW*.

Noise Management Plan

35. The EPA recommends that Council require the proponent to prepare and manage noise from the premises under a Noise Management Plan (NMP). The NMP should be prepared by a 'competent person' as defined in the *Approved methods for the measurement and analysis of environmental noise in NSW* (EPA, 2022), and describe, but not be limited to:
- hours of operation
 - identification and location of relevant sensitive receivers.
 - activities undertaken at the premises and a list of the specific mitigation measures (physical and operational) used to manage noise
 - how duty cycles for noisy activities (e.g. boat engine flushing, pressure blasting, grinding, and hammering) will be managed to minimise noise impacts

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- a system that allows for periodic assessment of Best Management Practice (BMP) and Best Available Technology Economically Achievable (BATEA) that has the potential to minimise noise levels from the facility,
- a chain of responsibility for management of noise and nomination of responsible persons and contact details.
- a procedure for management actions and responsibilities to avoid non-compliances and to respond to non-compliances, in the event of detected exceedance of noise limits.
- a complaints handling procedure, including operation of a telephone complaints line and action protocol.
- Measures for community consultation including site contact details,
- Noise monitoring and reporting procedures.
- a mechanism for periodic review of the plan, to be in consultation with the EPA.

Additions to Definition of Terms of the licence

- Noise Policy for Industry - the document entitled "*Noise Policy for Industry*" published by the NSW Environment Protection Authority in October 2017.
- Noise – 'sound pressure levels' for the purposes of noise conditions.
 - L_{Aeq} (15 minute) - the value of the A-weighted sound pressure level of a continuous steady sound that, over a 15 minute time interval, has the same mean square sound pressure level as a sound under consideration with a level that varies with time (Australian Standard AS 1055:2018 *Acoustics: description and measurement of environmental noise*).
 - L_{AFmax} – the maximum sound pressure level of an event measured with a sound level meter satisfying Australian Standard AS IEC 61672.1-2013 *Electroacoustics - Sound level meters - Part 1: Specifications* set to 'A' frequency weighting and fast time weighting.

OPERATING

36. Spray painting of vessels must be undertaken inside a workshop or building, unless the vessel is too large to fit inside any workshop or building on the premises.
37. Any grit blasting, sand blasting, pressure blasting, sanding or scraping works must be undertaken inside a workshop or building, unless the vessel is too large to fit inside any workshop or building on the premises.
38. Where a vessel is too large to fit inside any workshop or building on the premises, any outside repair works or outside spray painting must be completely enclosed using tarpaulins (or similar), and conducted:
 - i. in a manner that will prevent dust and airborne emissions; and
 - ii. over an impermeable, sealed area, and
 - iii. within a bund area that leads to a first flush collection and treatment system.
39. All doors providing access to a shed or building in which grit blasting, sand blasting, pressure blasting, scraping, sanding, or spray painting activities are being undertaken must remain closed while those activities are being undertaken. Any outside enclosed area at the BMF premises is to remain enclosed

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during grit blasting, sand blasting, pressure blasting, scraping, sanding, or spray painting activities to contain airborne debris.

Note: Doors providing access to a shed or building in which these activities are undertaken may remain open if these activities are not being undertaken at that time.

40. Antifoulant paint may only be applied to vessels using a roller, brush or airless spray application.
Note: Antifoul application using airless spray application outside of a shed or building must only be undertaken following encapsulation / screening using tarpaulins (or similar).
Note: Guidance information relating to the Organotin Chemical Control order and application of other antifouling paints is provided in the Fact sheet - *Applying Antifouling paints at marinas (NSW EPA, 2013)*.
41. The applicant must ensure all chemicals, fuels, lubricants and other material being stored on the premises, that may cause environmental harm, are contained within appropriately designed and constructed bund area(s) that meet the following requirements:
- Comply with any relevant Australian Standards relating to the storage and handling of the liquids and materials on the premises; and
 - Have impervious flooring and walls; and
 - Are maintained free of debris; and
 - Any liquid collected within the bund must be managed and disposed of appropriately to maintain capacity.
43. The applicant must have regard to the provisions of the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008*.
44. Activities occurring at the premises must be carried out in a manner that will minimise emissions of dust from the premises.
45. The surface areas of the hardstand used for vessel repairs and maintenance must be kept in a clean condition to prevent dust being blown or washed into waters

ODOUR

46. The applicant must comply with Section 129 of the *Protection of the Environment Operations Act 1997*.
47. The applicant must not cause or permit the emission of any offensive odour from the premises.

WASTE

48. All activities at the premises must be carried out in a manner that will prevent waste from polluting waters.
49. The applicant must provide facilities to ensure the collection storage and disposal of waste generated at the premises so that it does not pollute waters
50. The applicant must not cause, permit or allow any waste generated outside the premises to be received at the premises for storage, treatment, processing, reprocessing or disposal or any waste generated at

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the premises to be disposed of at the premises, except as expressly permitted by a licence under the Protection of the Environment Operations Act 1997.

51. The applicant must assess, classify and manage any waste generated at the premises in accordance with the Waste Guidelines prior to dispatching the waste off site.

General advisory notes

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation and other legislation. Some of these additional obligations are set out in the [Conditions of development consent: advisory notes](#). The consent should be read together with the *Conditions of development consent: advisory notes* to ensure the development is carried out lawfully.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent.

Building work or subdivision work must not be carried out until a construction certificate or subdivision works certificate, respectively, has been issued and a principal certifier has been appointed.

A document referred to in this consent is taken to be a reference to the version of that document which applies at the date the consent is issued, unless otherwise stated in the conditions of this consent.

Dictionary

The following terms have the following meanings for the purpose of this determination (except where the context clearly indicates otherwise):

Approved plans and documents means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

AS means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

Building work means any physical activity involved in the erection of a building.

Certifier means a council or a person that is registered to carry out certification work under the *Building and Development Certifiers Act 2018*.

Construction certificate means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

Council means SHELLHARBOUR CITY COUNCIL.

Court means the Land and Environment Court of NSW.

EPA means the NSW Environment Protection Authority.

EP&A Act means the *Environmental Planning and Assessment Act 1979*.

EP&A Regulation means the *Environmental Planning and Assessment Regulation 2021*.

Independent Planning Commission means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.

Occupation certificate means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

Principal certifier means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

Site work means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

Stormwater drainage system means all works and facilities relating to:

- the collection of stormwater,
- the reuse of stormwater,
- the detention of stormwater,
- the controlled release of stormwater, and
- connections to easements and public stormwater systems.

Strata certificate means a certificate in the approved form issued under Part 4 of the *Strata Schemes Development Act 2015* that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

Sydney district or regional planning panel means Southern Regional Planning Panel.