

DATE OF DEFERRAL	26 July 2023
DATE OF PANEL DECISION	26 July 2023
DATE OF PANEL MEETING	18 July 2023
PANEL MEMBERS	Chris Wilson (Chair), Greg Britton, Doug Lord
APOLOGIES	None
DECLARATIONS OF INTEREST	None (must include reason for declaration and whether the member participated or not)

Papers circulated electronically on 21 June 2023.

MATTER DEFERRED

PPSSTH-151 – Shoalhaven – DA21/2330 at 82 Cyrus Street, Hyams Beach 2540 – Retaining wall / seawall (as described in Schedule 1).

REASONS FOR DEFERRAL

The Panel considered the matters listed at item 6, the material listed at item 7 and the material presented at the briefings and observed at the site inspection listed at item 8 in Schedule 1.

In response to a landslip in 2022, the Panel noted that the landowner had constructed a 540mm (approximately) topping slab over concrete footings which were originally part of the development application currently before the Panel for determination. These works no longer form part of the development application and are subject to a separate Building Information Certificate currently being considered by Council.

The current application now only comprises the construction of a retaining wall (seawall) on top of the concrete footings and topping slab. The Panel is of the view that it may only consider the impacts associated with the retaining wall (seawall) when determining the current application, and not those associated with the slab, concrete footings and retaining wall (seawall) together.

Given the above, the Panel raised several concerns that it considers need to be addressed before the matter can be determined. These are as follows:

- Notwithstanding any concerns the Panel may have regarding the impacts associated with the overall structure (i.e., the topping slab, concrete footings and retaining wall (seawall)), the Panel acknowledges that it can only consider the implications of the retaining wall (seawall). However, Council's reasons for refusal are seemingly based on the impacts associated with the structure as a whole (i.e., concrete footings, topping slab and retaining wall (seawall)); and
- The Panel understands that Council is awaiting the Panel's decision on the retaining wall (seawall) before finalising its position on the Building Information Certificate relating to the concrete footings and topping slab. The Panel questions the logic of this approach given that Council's resolution of the Building Information Certificate could have implications for any decision relating to the proposed retaining wall (seawall) noting it would sit atop the concrete footings and topping slab.

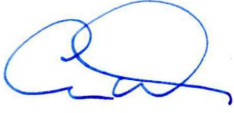

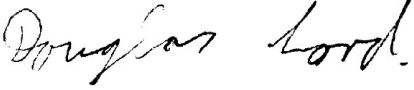
Consequently, the Panel agreed to defer the determination of the matter to allow consideration of the following questions;

- Is the Panel obliged to determine the application noting that potential outcomes associated with the Building Information Certificate may have implications for the proper determination of the application; and
- if no, would it not be more logical to await the outcome of the Building Information Certificate before making an informed decision on the current application.

The Panel will determine the matter electronically once the above matters have been further considered.

The Panel may request an addendum assessment report from Council responding to any issues which require consideration for the finalisation of the determination.

The decision to defer the matter was unanimous.

PANEL MEMBERS	
 Chris Wilson (Chair)	 Greg Britton
 Doug Lord	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSTH-151 – Shoalhaven – DA21/2330
2	PROPOSED DEVELOPMENT	Retaining wall / seawall
3	STREET ADDRESS	82 Cyrus Street, Hyams Beach 2540 - Lot 1 DP 1222535
4	APPLICANT/OWNER	Set Consultants Pty Ltd / Real Estate Capital Investors Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Certain Coastal Protection Works
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy (Biodiversity and Conservation) (2021) ○ State Environmental Planning Policy (Planning Systems) 2021 ○ State Environmental Planning Policy (Resilience and Hazards) 2021 ○ Shoalhaven Local Environmental Plan 2014 • Draft environmental planning instruments: Nil • <i>Coastal Management Act</i> 2016 • Development control plans: <ul style="list-style-type: none"> ○ Shoalhaven Development Control Plan 2014 • Planning agreements: Nil • Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2000</i> • Coastal zone management plan • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations • The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council Assessment Report: 27 June 2023 • List any clause 4.6 variation requests here • Written submissions during public exhibition: 1 • Total number of unique submissions received by way of objection: 1
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 25 May 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Acting Chair), Greg Britton, Doug Lord ○ <u>Council assessment staff</u>: Peter Woodworth, Cathy Bern, Rebecca Lockart ○ <u>Other</u>: Verity Rollason (DPE), Amanda Moylan (DPE) • Site inspection: 26 July 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Acting Chair), Greg Britton, Doug Lord ○ <u>Council assessment staff</u>: Nigel Smith, Peter Woodworth ○ <u>Applicant representatives</u>: David Cannon (SET), Tiana Phillips-Manard, Geoff Metzler, Jack Metzler, other members of applicant team observing • Briefing: 4 April 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Chair), Greg Britton, Doug Lord ○ <u>Council assessment staff</u>: Peter Woodworth ○ <u>Other</u>: Amanda Moylan (DPE)

		<ul style="list-style-type: none"> • Final briefing to discuss council's recommendation: 18 July 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Chair), Greg Britton, Doug Lord ○ <u>Council assessment staff</u>: Peter Woodworth, Cathy Bern, Rebecca Lockart ○ <u>Applicant representatives</u>: David Cannon (Set Consultants), Mark Davoren, Andrew Dyer Jack Metzler, Geoff Metzler. ○ <u>Other</u>: Amanda Moylan (DPE)
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	NA