

**DETERMINATION AND STATEMENT OF REASONS**  
SOUTHERN REGIONAL PLANNING PANEL

<b>DATE OF DETERMINATION</b>	5 December 2022
<b>DATE OF PANEL DECISION</b>	5 December 2022
<b>DATE OF PANEL MEETING</b>	30 November 2022
<b>PANEL MEMBERS</b>	Chris Wilson (Acting Chair), Renata Brooks, Tim Fletcher
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	Chris Homer & Graham Rollinson (Council owned land)

Papers circulated electronically on 23 November 2022.

**MATTER DETERMINED**

PPSSTH-160 – Shellharbour – DA0274/2022 at 37 Addison Street Shellharbour (Lot 1 DP 238804) and Allens Lane Carpark (Lot 15 DP 238804) – Shop top housing (as described in Schedule 1).

**PANEL CONSIDERATION AND DECISION**

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

**Development application**

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

**REASONS FOR THE DECISION**

The Panel determined to approve the application for the reasons outlined in the Council Assessment Report subject to several amendments to the recommended conditions. These are discussed further below.

The Panel was satisfied that the development is architecturally sound and would result in a good quality and well-integrated urban outcome with a design that is sympathetic to the adjoining heritage item, is consistent with the desired future character of the village as reflected in the applicable planning controls, and which generally respects the broader streetscape.

The Panel was also satisfied that the development would result in both acceptable offsite and internal amenity impacts with two exceptions.

The Panel notes that the development would deliver community open space of 13.75% whilst the Apartment Design Guide (ADG) recommends 25% of the site as an appropriate amount of communal open space. The Applicant's justification for the non-compliance relied on the generous balcony sizes afforded the units and to a lesser extent access to communal open space in the area.




However, the Applicant has incorporated a study in Unit 1.03 (2 x bedroom unit) at the expense of balcony space. This undermines the Applicant's justification for the non-compliant amount of community open space. Consequently, the Panel determined to impose a condition that requires this study to be deleted, and the balcony extended in its place. The Panel also identified an opportunity to improve solar access for bedroom 2 of Unit 1.03 through the installation of a highlight window within its northern wall. These matters have been conditioned accordingly.

## CONDITIONS

The Development Application was approved subject to the conditions in the Council Assessment Report with the following amendments.

- Deferred Commencement Condition i.a was amended to remove reference to an *Easement for Electricity Purpose* given it is superfluous
- Condition 15 was amended as follows:
  - a. amended to include the words '*or as otherwise agreed to by Council*' to provide the Applicant flexibility regarding the location of the bicycles in the basement;
  - b. amended to include the word '*Addison*' to provide certainty in the delivery of the awning;
  - f. incorporated to require the removal of the study in Unit 1.03 and the expansion of the balcony as discussed above;
  - g. incorporated to require that bedroom 2 of Unit 1.03 include an additional highlight window on its northern wall with a sill height of 1.8m to improve solar access; and
  - h. incorporated to ensure that car parking has access to electric vehicle charging points if required.
- Condition 38 was amended to incorporate the appropriate reference to the Department of Planning and Environment and to replace 'Director General' with 'Secretary'
- Condition 43 was amended to include the recommendation of the Preliminary Site Investigation (PSI) that a hazardous building materials survey should be undertaken prior to construction;
- Condition 77j was amended to remove reference to the *rooftop* in relation to the communal open space;
- Condition 77 was amended to remove the requirement for a positive covenant be created requiring property owners to comply with the Operational Management Plan required by Condition 77;
- Condition 88 was amended to change the wording from '*by*' to '*be*'.
- Condition 91 was incorporated to ensure that the ongoing use of the development complies with the Operational Management Plan (OMP) in perpetuity and that the OMP be included as part of any bylaws resulting from the future strata subdivision of the property.
- The conditions were renumbered accordingly.

In coming to its decision, the Panel considered written submissions made during public exhibition. The Panel considers that matters raised in submissions have been adequately addressed in the Council's Assessment Report and Conditions of Consent as imposed.

PANEL MEMBERS	
 Chris Wilson (Acting Chair)	 Renata Brooks
 Tim Fletcher	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSTH-160 – Shellharbour – DA0274/2022
2	PROPOSED DEVELOPMENT	Demolition of existing dwelling and ancillary structures, construction of shop top housing development comprising of one retail premises, ten residential units, ground level parking and associated landscaping.
3	STREET ADDRESS	37 Addison Street Shellharbour - Lot 1 & Lot 15, DP 238804
4	APPLICANT/OWNER	Couvaras Architects (Applicant) Demir Nominees Pty Limited (Owner) Shellharbour City Council (Owner of Car Park)
5	TYPE OF REGIONAL DEVELOPMENT	<b>Council related development over \$5 million</b>
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>State Environmental Planning Policy (Planning Systems) 2021</li> <li>State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development</li> <li>State Environmental Planning Policy (Building Sustainability Index – BASIX) 2004</li> <li>Shellharbour Local Environmental Plan 2013</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Shellharbour Development Control Plan 2013</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2000</i></li> <li>Coastal zone management plan: Nil</li> <li>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>The suitability of the site for the development</li> <li>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Council Assessment Report: <b>11 November 2022</b></li> <li>Written submissions during public exhibition: 2</li> <li>Total number of unique submissions received by way of objection: 2</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Briefing: 28 September 2022 <ul style="list-style-type: none"> <li><u>Panel members</u>: Chris Wilson (Acting Chair), Renata Brooks, Tim Fletcher</li> <li><u>Council assessment staff</u>: Nicole Doughty, Jasmina Micevski, Madeline Cartwright</li> <li><u>DPE</u>: Amanda Moylan</li> </ul> </li> <li>Site inspection: 28 September 2022 <ul style="list-style-type: none"> <li><u>Panel members</u>: Chris Wilson (Acting Chair), Tim Fletcher</li> <li><u>Council assessment staff</u>: Nicole Doughty, Jasmina Micevski, Madeline Cartwright</li> <li><u>DPE</u>: Amanda Moylan</li> </ul> </li> </ul>

		<ul style="list-style-type: none"><li>• Final briefing to discuss council’s recommendation: [date]<ul style="list-style-type: none"><li>○ <u>Panel members</u>: Chris Wilson (Acting Chair), Renata Brooks, Tim Fletcher</li><li>○ <u>Council assessment staff</u>: Nicole Doughty, Madeline Cartwright, Jasmina Micevski, Matthew Rawson</li><li>○ <u>Applicant representatives</u>: Peter Hickey, Peter Couvaras, Craig Moore, Luke Rollinson</li><li>○ <u>DPE</u>: Sung Pak</li></ul></li></ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report