

DATE OF DEFERRAL	20 April 2021
PANEL MEMBERS	Gordon Kirkby (Chair), Renata Brooks, Susan Budd, Graham Rollinson, Marianne Saliba
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Public meeting held by teleconference on 13 April 2021, opened at 10:00am and closed at 12:00pm.

MATTER DEFERRED

PPSSTH-20 – SHELLHARBOUR – DA0563/2019 at 71 Fig Hill Lane, Dunmore NSW 2529 – Redevelopment of the site as an Eco-Tourist Facility comprising 33 guest rooms, A gym and spa area, restaurant, lounge bar, terrace and pool area (as described in Schedule 1).

REASONS FOR DEFERRAL

The Panel agreed to defer the determination of the matter for the following reasons:

- Council’s assessment report and recommendations were revised prior to the meeting following receipt of correspondence from the Rural Fire Service (RFS) and the issue of General Terms of Approval (GTA). This information, while posted on the Panel’s website, has not been publicly available for a sufficient period of time to enable procedural fairness.
- Legal advice from Esplins Solicitors provided by the Applicant (dated 6 April 2021) in connection with the terms of the Right of Carriageway benefitting the site has not been the subject of legal review and advice to the Panel by Council;
- A number of matters were raised in the public meeting and by Panel members that require further information or clarification prior to a determination.

The following information is therefore required to be submitted to the Panel within 2 weeks of the date of this Record:

1. A legal review of the advice from Esplins Solicitors submitted by the Applicant (dated 6 April 2021) in connection with the terms of the Right of Carriageway benefitting the site, and advice from Council in this regard. In particular the advice should address the proposed change and intensification of the land use on the DA site and the need or otherwise of landowner’s consent for the proposed road upgrade within the Right of Carriageway;
2. Clarification on the following with regard to the proposed road upgrade works within the Right of Carriageway connecting the development to Riverside Drive:
 - a. the timing and responsibility for undertaking upgrade of the road within the section of Right of Carriageway also subject to the Dunmore Lakes Sand Extraction Project (DA 195-8-2004 MOD 2);
 - b. Any required tree removal; and
 - c. Required width and standard of road surface to ensure suitable access for RFS vehicles;
3. Clarification that the advice received from the Rural Fire Service, dated 1 April 2021 is complete and satisfies the requirements for a Bush Fire Safety Authority under Section 100B of the Rural Fires Act 1997 to be issued subject to the General Terms of Approval being met;
4. Clarification that proposed clearing of vegetation on the site, as a result of the revisions to the Asset Protection Zones (APZ) required in the RFS GTAs, remains below the threshold for offset requirements under the Biodiversity Conservation Act 2016;
5. Clarification as to which trees are proposed to be retained and removed outside of the APZ areas of the site;

6. Advice regarding the proposed upgrade of Endeavour Energy electricity infrastructure to the site and the network capacity and timing of such works.
7. A revised assessment report and recommended conditions of consent to incorporate the above information requirements and assessment of the proposed roadworks at the intersection of Riverside Drive and Fig Hill Lane. Should the revised assessment report recommend approval, the report is required to address why the reasons for refusal articulated in the original assessment report no longer apply.

When this information has been received, the panel will hold another public determination meeting.

The decision to defer the matter was unanimous. The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

PANEL MEMBERS	
 Gordon Kirkby (Chair)	 Renata Brooks
 Susan Budd	 Graham Rollinson
 Marianne Saliba	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSTH-20 – SHELLHARBOUR – DA0563/2019 at
2	PROPOSED DEVELOPMENT	Redevelopment of Site As An Eco-Tourist Facility Comprising 33 Guest Rooms, A Gym And Spa Area, Restaurant, Lounge Bar, Terrace and Pool Area
3	STREET ADDRESS	71 Fig Hill Lane, Dunmore NSW 2529
4	APPLICANT/OWNER	Applicant: Mr G Cirillo Owner: Alotap Pty & Ltd & David Moodie Pty Limited
5	TYPE OF REGIONAL DEVELOPMENT	Eco-tourist facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ Shellharbour Local Environmental Plan 2013 ○ Environmental Planning and Assessment Act 1979 ○ State Environmental Planning Policy– Remediation of Land ○ State Environmental Planning Policy (Infrastructure) 2007 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Shellharbour Development Control Plan 2013 • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil • Coastal zone management plan: State Environmental Planning Policy– Coastal Management 2018 • 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: 25 March 2021 • Written submissions during public exhibition: 41 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ Clifford Manson (on behalf of the Minnamurra Progress Association), John Porter, Paul Sheridan <p>On behalf of the applicant – Giovanni Cirillo, Stephen Nordon, Stephen Rush, John Travers</p>
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: Tuesday 3 March 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Gordon Kirkby (Chair), Tim Fletcher, Renata Brooks ○ <u>Council assessment staff</u>: James Douglas, Caren Taylor, Andrew Lee, Luke Preston, Prabin Kayastha • Briefing: Thursday, 10 September 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Gordon Kirkby (Chair), Tim Fletcher, Graham Rollinson, Marianne Saliba ○ <u>Council assessment staff</u>: James Douglas • Site Visit: Monday, 29 March 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Gordon Kirkby (Chair), Renata Brooks, Graham Rollinson ○ <u>Council assessment staff</u>: James Douglas

		<ul style="list-style-type: none"> • Final briefing to discuss council’s recommendation: Tuesday, 13 April 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Gordon Kirkby (Chair), Renata Brooks, Susan Budd, Graham Rollinson, Marianne Saliba ○ <u>Council assessment staff</u>: James Douglas, Vicki Walker, Grant Meredith • Public Determination: Tuesday, 13 April 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Gordon Kirkby (Chair), Renata Brooks, Susan Budd, Graham Rollinson, Marianne Saliba ○ <u>Council assessment staff</u>: James Douglas, Vicki Walker
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Attached to the council assessment report