

## DETERMINATION AND STATEMENT OF REASONS

### SOUTHERN REGIONAL PLANNING PANEL

<b>DATE OF DETERMINATION</b>	21 May 2021
<b>PANEL MEMBERS</b>	Renata Brooks (Acting Chair), Tim Fletcher, Stuart McDonald, Graham Rollinson
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	<p>Gordon Kirkby: The proposed development is part of the Shell Cove development. While Ethos Urban is not the consultant for this development nor is the applicant a client, Ethos Urban (as part of the Frasers Property Australia project team) has in the past been in discussions with the Applicant regarding the sale of the site. I have no direct role in this project, however I consider that there is a conflict of interest for this project.</p> <p>Marianne Saliba: Shellharbour Council is the owner</p> <p>John Murray: As SCC are part of the proponents</p> <p>Susan Budd: The applicant Shellharbour Council is a member of LGNSW (Susan's employer) and the Mayor sits on the board.</p>

#### MATTER DETERMINED

PPSSTH-22 – SHELLHAROUR – DA0610/2019 at 10 Waterfront Promenade SHELL COVE 2529 NSW – 11 storey mixed use development including hotel with 117 rooms, 32 serviced apartments, 42 residential apartments, function centre, food and drink premises and basement parking. (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 considers the proposed development:

- Is generally consistent with the relevant statutory requirements, development controls and planning objectives
- Is generally consistent with the applicable provisions of the relevant state planning policies including SEPP 65 and the Apartment Design Guide
- Exceeds the height limit established by the Shell Cove Boat Harbour Concept Plan 07\_0027 MOD 1 by 2.1 m but the exceedance relates to only a small proportion of the roof space and the panel is satisfied that it does not materially affect view impacts
- Is a landmark development within a master planned community and this is reflected in the acceptance by Council of obligations to maintain vegetation screening to mitigate the visual impact of the development, including the proposed substation.
- Can satisfactorily address parking adequacy through operational plans as required through proposed conditions of approval.
- Can satisfactorily address the need to manage potential impacts of hotel on residential users and vice versa through the imposition of additional conditions.

## CONDITIONS

The development application was approved subject to the conditions in the council assessment report with the following amendments.

### Conditions to maintain appropriate separation between hotel/serviced apartment guests and permanent residents and provide appropriate amenity to both





- Additional condition prior to issue of construction certificate:
- *Modified plans for basement level 4 are to be submitted to Council for approval. Plans are to include a separate lift and lift lobby for hotel/serviced apartment guests and indicate the intended use of the two coloured areas on opposite sides of the access way immediately to the south of the hotel lift pit.*
- Add after condition 56 (c):
- *Measures to manage the communal open space on level 5 for safe and equitable use by residents, including defining and managing alcohol and smoke free areas and implementing the recommendations contained in the Social Impact Assessment Ethos Urban 9 October 2020.*
- Amend conditions 56 and 57 to require the Commercial and Residential Plans of Management to be submitted to Council for approval
- Amend condition 67 (a) as follows:
  - Positive Covenant that visitor stays at the hotel accommodation and/or serviced apartments does not include any period of 21 consecutive days *or more than a total period of 42 days in any 12 month period.*

### Conditions amended for clarity

- Amend condition 10(d) to reconcile the reference to the Ballroom with the approved ground floor plans
- Amend conditions 7 and 27 to replace *"The Certifier must ensure that Sydney Water Tap In has issued the appropriate electronic approval prior to the commencement of any works"* with *"Works must not be commenced until the appropriate electronic approval has been issued by Sydney Water Tap In."*
- Delete condition 28 – Landscape Inspection Fee.

## CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel notes that no written submissions were made during public exhibition and therefore no issues of concern were raised.

PANEL MEMBERS	
 Renata Brooks (Chair)	 Tim Fletcher
 Stuart McDonald	 Graham Rollinson

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSTH-22 – SHELLHAROUR – DA0610/2019
2	PROPOSED DEVELOPMENT	11 storey mixed use development including hotel with 117 rooms, 32 serviced apartments, 42 residential apartments, function centre, food and drink premises and basement parking.
3	STREET ADDRESS	10 Waterfront Promenade SHELL COVE 2529 NSW
4	APPLICANT/OWNER	Covecom Pty Ltd (applicant) Shellharbour City Council (landowner)
5	TYPE OF REGIONAL DEVELOPMENT	CIV > \$5M - Council interest
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 (coastal management) 2018</li> <li>SEPP - (State and Regional Development) 2011 – Council related Development over \$5 million</li> <li>SEPP 55 – Remediation of land</li> <li>SEPP 65 – Design Quality of Residential Apartment Development.</li> <li>SEPP (Building Sustainability Index – BASIX) 2004</li> <li>Shell Cove Boat Harbour Concept Plan 07_0027 MOD 1</li> <li>Shellharbour Local Environmental Plan 2013</li> <li>Shell Cove Design Guidelines Precinct D – Amendment 2.</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>Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil</li> <li>Coastal zone management plan: SEPP (Coastal Management) 2018</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: 20 April 2021</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Briefing: 3 March 2020 <ul style="list-style-type: none"> <li><u>Panel members</u>: Renata Brooks (Acting Chair), Tim Fletcher, Stuart McDonald</li> <li><u>Council assessment staff</u>: Madeline Cartwright, Vicki Walker</li> </ul> </li> <li>Final briefing to discuss council's recommendation: 12 May 2021 <ul style="list-style-type: none"> <li><u>Panel members</u>: Renata Brooks (Acting Chair), Tim Fletcher, Stuart McDonald, Graham Rollinson</li> <li><u>Council assessment staff</u>: Madeline Cartwright, Vicki Walker</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report