

DATE OF DETERMINATION	Tuesday 24 July 2018
PANEL MEMBERS	Garry West (Chair), Stephen Gow and Pamela Westing.
APOLOGIES	David Milledge
DECLARATIONS OF INTEREST	Basil Cameron - Declared a non-pecuniary conflict of Interest as a consequence of him being a councilor when the Byron Development Control Plan was amended for the development application in February 2018. At the time Cr Cameron was not expecting to be a Northern Regional Panel Member.

Public meeting held at Byron Shire Council Conference Room 70-90 Station Street Mullumbimby, opened at 10.31am and closed at 10.41am.

MATTER DETERMINED

2017NTH028 – Byron – DA10.2017.628.1 at 28 Parkes Avenue Byron Bay (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 the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel determined to approve the development application pursuant to section 4.16 (previously section 80) of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The reasons for the decision of the Panel to approve the Clause 4.6 variation were:

- The Panel has considered the Applicant's request to vary the development standards contained in the Byron Local Environment Plan 2014 Clause 4.3 relating to height of buildings.
- The Panel is satisfied that the request has adequately addressed the matters to be demonstrated by the Applicant under Clause 4.6 (3). The Panel considers compliance with the standards would be unreasonable and unnecessary in the circumstances of this case as:
 - The building's height would not result in any material loss of urban character or amenity in its locality;
 - The contravention of the building height will not result in impacts of overlooking or overshadowing.

The reasons for the decision of the Panel to the development application are:

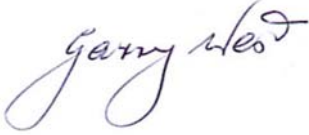


- State Environmental Planning Policy No.44 – the site does not constitute potential koala habitat nor contain core koala habitat and therefore no further assessment is required;
- State Environmental Planning Policy No.55 – the site is considered suitable for the proposed use;
- The proposed development provides a positive response to the character of the area, particularly in terms of other built form within the site.

- The proposed development adds to the existing Habitat development and provides positive social, economic and environmental outcomes, particularly through the development of housing diversity, commercial and retail diversity and increased live/work opportunities.

CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report with the following amendments.

- Condition 1 was amended to change the reference to three plans dated 08.06.2018 to 27.06.2018

PANEL MEMBERS	
 <p>Garry West (Chair)</p>	 <p>Stephen Gow</p>
 <p>Pamela Westing</p>	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2017NTH028 – Byron – DA10.2017.628.1
2	PROPOSED DEVELOPMENT	Erection of buildings containing 60 ‘pocket living’ apartments and associated amenities, plus subdivision to create 1 additional Community Title lot.
3	STREET ADDRESS	28 Parkes Avenue Byron Bay
4	APPLICANT OWNER	Planners North Bayshore Development Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General Development over \$20million and lodged before 1 March 2018
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy No. 55 Remediation of Land State Environmental Planning Policy No.71 Coastal Protection State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 State Environmental Planning Policy (State and Regional Development) 2011 Byron Local Environmental Plan 2014 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Byron Development Control Plan 2014 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Clause 92, 98A and 98B Coastal zone management plan: Nil 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: 9 July 2018 Written submissions during public exhibition: nil Verbal submissions at the public meeting: <ul style="list-style-type: none"> Support – NIL Object – NIL On behalf of the applicant – NIL
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Site inspection: 24 July 2018 Final briefing meeting to discuss council’s recommendation, 24 July 2018, 9.30 am. Attendees: <ul style="list-style-type: none"> <u>Panel members</u>: Garry West (Chair), Stephen Gow and Pamela Westing. <u>Council assessment staff</u>: Rob van Iersel, Major Projects Planner and Fraser Williams-Martin, Architect for the Applicant.
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report as amended