

DATE OF DETERMINATION	Thursday, 21 February 2019
PANEL MEMBERS	Michael Leavey (Chair), Susan Budd, Stuart McDonald, Cr Kyle MacGregor
APOLOGIES	Jason Perica, Kara Krason, Cr Jeff Sundstrom, Cr Chris Burke
DECLARATIONS OF INTEREST	None

Public meeting held at Central Coast Council – Wyong Office – 2 Hely Street on 21 February 2019, opened at 4:05pm and closed at 6.22pm.

MATTER DETERMINED

2018HCC004 – Central Council – Wyong Office – DA/44/2018 at 6, 8 & 10 Dunleigh Street, Toukley NSW 2263 (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.

The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

The Panel determined to support the clause 4.6 variation to building height and to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

The terms of the decision are:

1. In relation to the contravention by the development of the maximum height development standard of 12 metres imposed by clause 4.3 of Wyong Local Environmental Plan 2013 (“WLEP 2013”), the Panel is satisfied that:
 - (i) the applicant’s written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of WLEP 2013, and
 - (ii) the proposed development will be consistent with the objectives of the standard and the objectives for development within the R3 Medium Density Residential zone under WLEP 2013.
2. That the Panel assume the concurrence of the Secretary of the Department of Planning and Environment in accordance with the written notification of assumed concurrence issued under clause 64 of the Environmental Planning and Assessment Regulation 2000.
3. That the Panel grant consent to DA/44/2018 at 6-10 Dunleigh Street, Toukley for construction of a residential flat building (34 dwellings) under the provisions of SEPP (Affordable Rental Housing) 2009 and associated demolition works, subject to the conditions provided in Attachment 2.
4. That Council advise those who made written submissions of the Panel’s decision

REASONS FOR THE DECISION

- The Panel generally agreed with the assessment of environmental impact, conclusions and recommendations within the Council staff reports.
- The proposal will provide needed affordable housing on appropriately zoned land located within an identified Local Centre under the Central Coast Regional Plan and the Council's Toukley Planning Strategy. The Panel noted the site has reasonable access to local services in the Toukley Local Centre and is within an "accessible area" for bus services, as is required under the Affordable Rental Housing SEPP.
- The Panel had regard to the zoning and development controls applying to the site, which encourage and allow development forms and building heights consistent with the proposal, and noting the proposal meets or exceeds the minimum setback requirements under Wyong DCP 2013 and that the requirements of the SEPP65 Apartment Design Guide have been satisfactorily addressed.
- The Panel noted the building height variation was approximately 0.9m to the top of the building, as would be visible externally, and the additional building height related to a lift overrun which is a minor element of the building, and is recessed behind the main building lines. The Panel was of the opinion the clause 4.6 variation was well founded, having regard to the requirements of clause 4.6 of Wyong LEP 2013 and the objectives of the development standard and the R3 Medium Density Residential zone.
- The Panel is satisfied that the communal open space meets the quantum requirements at ground level under Wyong DCP 2013, in addition to other private open space, and this would include use by children as would be the case for any other residential flat development as is permitted on the site.
- The Panel is satisfied that reasonable development options have been demonstrated for the adjoining property to the west, as has been confirmed by Council officers.
- Traffic/ Parking Matters
 - An updated traffic assessment has been provided, which includes updated information relating to other approved uses in the area and traffic growth estimates, and demonstrates the proposal will have a negligible impact on the safety and operating outcome of the surrounding road network;
 - Roads and Maritime Services have assessed the proposal, and raise no objection to the proposal or its impact on main roads;
 - The proposal complies with the car parking requirements of the Affordable Rental Housing SEPP, which are a standard if met that cannot be used as a reason to refuse consent;
 - Both the updated traffic assessment and Council's traffic advice confirm the vehicular access arrangements as proposed are acceptable, and that the proposal will not unreasonably impact on traffic movements on Tamar Avenue (also recognising Condition 2.8 of the consent); and
 - The issue of emergency vehicle access is addressed in the updated traffic assessment, which demonstrates that emergency vehicle access will not be compromised by the proposal, and the same issues would apply to any development on the site in accordance with the current planning controls .
- Appropriateness of Affordable Housing on the site
 - The proposal is to be undertaken by a registered Social Housing Provider, and is consistent with the planning controls applying to the site;
 - The proposal meets the access and servicing provisions of the Affordable Rental Housing SEPP;
 - Council's social planning assessment has not raised any issues with the social impact of the proposal or the provision of affordable housing on the site;
 - The site is located in an identified Local Centre, and in an "accessible area"; and
 - The accessibility of the development to services would be the same as for an equivalent 'salt and pepper' approach to providing affordable housing in the area.





CONDITIONS

The development application was approved subject to the conditions in the Council Supplementary Assessment Report

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during and after public exhibition and heard from all those wishing to address the panel, at 2 separate meetings. The Panel also had regard to the assessment of issues raised in public submissions in the assessment reports prepared by Council staff.

The Panel was of the opinion that the relevant issues raised by the community have been addressed through the information provided with the application; in the Council's assessment reports; through conditions of consent; and as addressed in the Panel's reasons above.

PANEL MEMBERS	
 Michael Leavey (Chair)	 Susan Budd
 Stuart McDonald	 Cr Kyle MacGregor

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2018HCC004 – Central Coast Council – Wyong Office – DA/44/2018
2	PROPOSED DEVELOPMENT	Residential Flat Building consisting of 34 dwellings under SEPP (Affordable Rental Housing) 2009 and associated demolition works.
3	STREET ADDRESS	6, 8 & 10 Dunleigh Street, Toukley NSW 2263
4	APPLICANT/OWNER	Barr Property and Planning
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Affordable Rental Housing) 2009. State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development State Environmental planning Policy No. 71 – Coastal Protection State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 State Environmental Planning Policy 55 – Remediation of Land State Environmental Planning Policy (State and Regional Development) 2011 State Environmental Planning Policy (Infrastructure) 2007 Draft environmental planning instruments: Wyong Local Environmental Plan 2013 Development control plans: <ul style="list-style-type: none"> Wyong Shire Development Control Plan 2013 <ul style="list-style-type: none"> Chapter 1.2 Notification of Development Proposals Chapter 2.4 – Multiple Dwelling Residential Development Chapter 2.11 – Parking and Access Chapter 3.1 Site Waste Management Chapter 5.4 – Greater Toukley Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil 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"> Submission from council dated 18 February 2019, received by the Planning Panels Secretariat on 21 February, from CEO Gary Murphy regarding council's resolution of 29 January 2019 Petition tabled at the meeting. Verbal advice from Council staff at the meeting clarifying that the proposal complies with SEPP 71. Council assessment reports: 31 January 2019, 6 November 2018 Additional traffic assessment from Barker Ryan Stewart dated 25 January 2019, as published on the Panel's website Written submissions during public exhibition: 53 Additional public submissions: 38

		<ul style="list-style-type: none"> • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ In support – Nil ○ In objection – Allan Anderson, Sarah Davis, Ian Wagstaff, Bronwyn Evans, Kathleen Watson and Luigi Calzolari ○ Council assessment officers – Salli Pendergast, Steve McDonald ○ On behalf of the applicant – Paul Jones, Josie Hills, Rob Day, Kirsty Tepper and Donald Proctor
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Site inspection and briefing: 22 March 2018 • Final briefing to discuss council's recommendation, Thursday, 21 February 2019, 3.30pm. Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Michael Leavey (Chair), Susan Budd, Stuart McDonald, Cr Kyle MacGregor ○ <u>Council assessment staff</u>: Salli Pendergast, Michelle Gilson, Masahina Kimura, Steve McDonald, Janice Buteux-Wheeler and Emily Goodworth
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council supplementary assessment report