

<b>DATE OF DETERMINATION</b>	Wednesday, 20 March 2019
<b>PANEL MEMBERS</b>	Garry West (Chair), Pamela Westing, John Griffin and Daniel Walsh
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	Dominic King declared a conflict of interest for this application, as Mayor of Bellingen Shire Council, as Council is part-owner of the site.

Public meeting held at Bellingen Shire Council on 20 March 2019, opened at 9.30am and closed at 11am.

#### **MATTER DETERMINED**

2018NTH010 – Bellingen – 2018/DA-25 at 84 Hyde Street, Bellingen (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 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 reasons for the decision of the Panel to approve the Clause 4.6 variation were:**

- The Panel considered the Applicant's request pursuant to clause 4.6 of the Bellingen Shire Local Environmental Plan 2010 to vary the development standard contained in clause 4.3 relating to height of buildings.
- The Panel is satisfied that the Applicant's request adequately addresses the matters to be demonstrated by the Applicant under Clause 4.6(3), namely that:
  - Compliance with the development standards would be unreasonable or unnecessary in the circumstances of the case by presenting a consistent development outcome to its surrounding context; and
  - There are sufficient environmental planning grounds to justify contravening the development standard as the proposed development continues to meet the objectives of the height of buildings development standard and the objectives of the B2 Local Centre Zone.

Further reasons for the decision of the Panel to grant approval were:

- SEPP 55 Remediation of Land – considering the historic use of the site as a service station remediation works are proposed and conditioned to render the site suitable for its intended use for shop-top housing.
- SEPP 65 Design Quality of Residential Apartment Development – Council has not appointed a design review panel, however as required by clause 50 of the *Environmental Planning and Assessment Regulation 2000*, the application was accompanied by a statement by a qualified designer verifying that the development achieves both the relevant design quality principles contained in the objectives of the Apartment Design Guide.
- Whilst overshadowing will occur to east facing windows on the adjoining development to the west, no north facing windows will be overshadowed;

- Conditions have been adopted to acoustic report with appropriate control measures to ensure that residential accommodation is not adversely affected by road or commercial noise;
- The shortfall of car parking spaces is compensated by a Planning Agreement that has been accepted Council for the construction of an additional 36 parking spaces within the road reserve of Oak Street, including footpath connectivity and lighting back to the development site;
- It is considered the works proposed by the Planning Agreement are in the public interest

## CONDITIONS

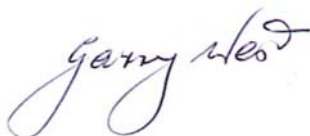



The development application was approved subject to the conditions in the Council Assessment Report.

## CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the panel. The Panel notes that issues of concern included:

- Height of development and number of storeys
- Structural impact on adjoining buildings during construction
- Other construction impacts
- Impact on adjoining residential privacy, solar access and views
- Flooding and drainage issues
- Compatibility with heritage area
- Inappropriate bulk and scale
- Noise impact from Federal Hotel
- Impact on traffic and parking
- Adequacy of information provided

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report and that no new issues requiring assessment were raised during the public meeting. The Panel notes that in addressing these issues appropriate conditions have been imposed addressing construction impacts, the requirement for a traffic management plan, and acoustic assessments with recommendations to address noise impacts from operation of Federal Hotel.

PANEL MEMBERS	
 Garry West (Chair)	 Pamela Westing
 John Griffin	 Daniel Walsh

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2018NTH010 – Bellingen – 2018/DA-25
2	PROPOSED DEVELOPMENT	Demolition, remediation and construction of shop top housing
3	STREET ADDRESS	84 Hyde Street, Bellingen
4	APPLICANT/OWNER	Geo LINK (Simon Waterworth) / Shaul Rubinstein Pty Ltd and Bellingen Shire Council
5	TYPE OF REGIONAL DEVELOPMENT	Council related development over \$5 million
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 No 55 – Remediation of Land</li> <li>State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development</li> <li>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>State Environmental Planning Policy (Infrastructure) 2007</li> <li>State Environmental Planning Policy (State and Regional Development) 2011</li> <li>Bellingen Local Environmental Plan 2010</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Bellingen Shire Development Control Plan 2017</li> </ul> </li> <li>Planning agreements: Draft planning agreement that the developer has offered to enter into under Section 7.4</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil</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: 6 March 2019</li> <li>Written submissions during public exhibition: 18</li> <li>Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>In support – NIL</li> <li>In objection – Joe Walker, Ziggy Koenigseder, Katherine Jones, Barbara Moore, Julian Solomon, Janine Harkness, and John Robertson.</li> <li>Council assessment officer – Daniel Bennett, Senior Strategic Planner.</li> <li>On behalf of the applicant – Simon Waterworth, Director/Town Planner, Geolink.</li> </ul> </li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Site inspection on 20 March 2019 and Final briefing to discuss council's recommendation, 20 March 2019, 8.30am. Attendees: <ul style="list-style-type: none"> <li><u>Panel members</u>: Garry West (Chair), Pamela Westing, John Griffin and Daniel Walsh</li> <li><u>Council assessment staff</u>: Daniel Bennett, Senior Strategic Planner; Luke Perry, Group Leader, Planning; and Deborah Wray, Bellingen Shire Council Heritage Advisor.</li> </ul> </li> </ul>

9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report