

<b>DATE OF DETERMINATION</b>	26 May 2022
<b>DATE OF PANEL DECISION</b>	25 May 2022
<b>PANEL MEMBERS</b>	Paul Mitchell (Chair), Penny Holloway, Stephen Gow, Ned Wales and John Byrne
<b>APOLOGIES</b>	Stephen Phillips
<b>DECLARATIONS OF INTEREST</b>	None

Papers circulated electronically on 10 May 2022.

#### **MATTER DETERMINED**

PPSNTH-130 - Tweed– DA21/0637 at 5 Grand Pde, Casuarina – residential flat building (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 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 determined to approve the application for the following reasons:

1. The proposal is consistent with the Major Projects Concept Approval granted by the Minister's delegate for the site (MP06\_0258-Mod 10) including the four-storey height limit given in that approval, meaning the minor non-compliance with the height standard in the Tweed LEP is not a relevant consideration. Similarly, approval of medium density residential use as given in the Major Projects Concept Approval overrides the prohibition of such residential development in the LEP's B2 zone.
2. The proposed development is consistent with relevant LEP zone objectives. While generally consistent with the majority of the relevant standards and provisions of the applicable SEPPs, the Tweed LEP and DCP, the proposed design involves variations to some of the design criteria in the Apartment Design Guide pursuant to SEPP 65. These variations were considered by the Panel to have limited impact and were acceptable based on the Council's assessment and circumstances of the case, subject to the revised conditions outlined below.
3. Overall, the design of the proposal, including its bulk and height, is appropriate for its setting in the town centre and is generally considered to satisfy the Principles in SEPP 65 to ensure high quality design of new apartment buildings.
4. The site of the proposed development is suited to the intended use. It is within the Casuarina town centre, will enhance the appearance of Grand Parade, and has suitable access, all necessary infrastructure and proximity to support services and shops. Also, the site is largely cleared and level and is free of environmental constraints. Specifically, the Panel believes the development will have no consequential impacts on the biophysical, hydrological and ecological features of the site and its surrounds, nor any adverse impacts on coastal values, processes or access including impacts on

water quality, Aboriginal and general cultural heritage, views and greater shadowing or wind effects in public places.

5. The proposed development will add to the stock and range of housing available in the locality, thereby contributing to improved housing affordability and choice and being socially beneficial.
6. For the reasons given above, approval of the proposed development is in the public interest.

## CONDITIONS

The Development Application was approved subject to the conditions in the Council Assessment Report with the following amendments:

1. Insert New GENERAL CONDITION (Condition 9.1) after Condition 9 –

### 9.1 Bushfire Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

- (a) Construction shall comply with Australian Standard AS3959-2018 'Construction of buildings in Bush Fire-prone areas', Bushfire Attack Level (BAL) LOW for dwelling.
- (b) The building shall be installed with suppression systems as set out in the Bushfire Assessment Report for 5 Grand Parade, Casuarina prepared by AEP and dated 25 February 2022: All suppression system will comply with:
  - AS 1670- Automatic fire detection and alarm systems,
  - AS1841 – Portable fire extinguishers,
  - AS1851 – Service and maintenance of fire protection,
  - AS2293- Emergency escape lighting and exit signs.

2. Condition 13 to be updated as follows:

13. A detailed Plan of Landscaping containing no priority weed species and with a minimum 80% (unless a lesser percentage is agreed by the General Manager or his delegate based on site specific environmental tolerances such as sun exposure, salt tolerance, etc ) of total plant numbers comprised of local native species to the Tweed Shire is to be submitted and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate. Local native species are to comprise appropriate species selected from the Tweed Shire Native Species Planting Guide available online at: <http://www.tweed.nsw.gov.au/Controls/NativeSpeciesPlanting/Landing.aspx>.

3. Condition 26 to be updated and expanded as follows:

26. Updated plans are to be submitted to, and approved by, the Certifier (Council or a Registered Certifier):
  - (a) showing the inclusion of external, operable blinds screens, panels or louvres on eastern, ~~to~~ the western and south-western facing units in order to provide sufficient shading during summer months that is controllable by occupants; and
  - (b) showing appropriately varied design of the external glazing for the apartments on the four frontages to ensure the potential for variable natural ventilation that is controllable by occupants, tolerant of gentle rain and insect-protected.

4. Include advisory note at the end of the 'Prior of Issue of Construction Conditions' – After Condition 30:

Advisory Note:

The applicant is to consider the introduction of skylights or other design changes to the roof over apartment 3.06 to facilitate ventilation and natural lighting.

5. Insert New DURING CONSTRUCTION CONDITION (Condition 77.1) after Condition 77 –


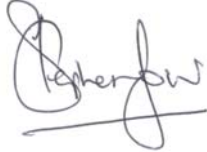

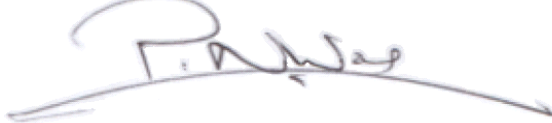

# All works shall be carried out in accordance with the Acid Sulfate Soils Investigation and Management Plan prepared by Geotech Investigations Pty Ltd, dated 1 July 2021 and numbered Project Ref GI 5913-A.

#### 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:

- Noise
- Traffic and parking
- Visual impact
- Building height
- Not in keeping with local character

The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report and by the conditions of consent imposed.

PANEL MEMBERS	
 Paul Mitchell OAM (Chair)	 Stephen Gow
 Penny Holloway	 Ned Wales
 John Byrne	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSNTH-130 - Tweed– DA21/0637
2	PROPOSED DEVELOPMENT	Development of the recently created lot (under MP06_0258-Mod 10) involving the construction of a 4 storey residential flat building comprising 48 residential units and 1 level of basement car parking.
3	STREET ADDRESS	Lot 59 DP 1264557 being 5 Grand Parade, Casuarina
4	APPLICANT/OWNER	Casuarina JV Pty Ltd C/- Town Planning Alliance (NSW) Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 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 (Planning Systems) 2021;</li> <li>○ State Environmental Planning Policy (Transport and Infrastructure) 2021;</li> <li>○ State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Building;</li> <li>○ State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;</li> <li>○ State Environmental Planning Policy (Biodiversity and Conservation) 2021;</li> <li>○ State Environmental Planning Policy (Resilience and Hazards) 2021;</li> <li>○ Tweed Local Environmental Plan 2014</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Tweed Development Control Plan 2008</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: 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: 9 May 2022</li> <li>• Written submissions during public exhibition: three (3)</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Briefing: 15 February 2022 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Paul Mitchell (Chair), Penny Holloway, Stephen Gow and Ned Wales</li> <li>○ <u>Council assessment staff</u>: Valerie Conway</li> <li>○ <u>Department staff</u>: Carolyn Hunt and Lisa Foley</li> </ul> </li> <li>• Final briefing to discuss council's recommendation: 18 May 2022 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Paul Mitchell (Chair), Penny Holloway, Stephen Gow, Ned Wales and John Byrne</li> <li>○ <u>Council assessment staff</u>: Alyssa Norton, Valerie Conway, Mick Denny and Robert Noakes</li> <li>○ <u>Department staff</u>: Carolyn Hunt and Lisa Foley</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>• Applicant Briefing: 18 May 2022 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Paul Mitchell (Chair), Penny Holloway, Stephen Gow, Ned Wales and John Byrne</li> <li>○ <u>Council assessment staff</u>: Alyssa Norton and Valerie Conway, Mick Denny and Robert Noakes</li> <li>○ <u>Department staff</u>: Carolyn Hunt and Lisa Foley</li> <li>○ <u>Applicant representatives</u>: Godfrey Esmonde, Jessica Robson, Danny Juric, Eleas Nicholaou and John Lunney</li> </ul> </li> <li><u>Note</u>: Applicant briefing was requested to respond to the recommendation in the council assessment report</li> </ul>
9	<b>COUNCIL RECOMMENDATION</b>	Approval
10	<b>DRAFT CONDITIONS</b>	Attached to the Council Assessment Report