

## DETERMINATION AND STATEMENT OF REASONS

### NORTHERN REGIONAL PLANNING PANEL

<b>DATE OF DETERMINATION</b>	16 May 2023
<b>DATE OF PANEL DECISION</b>	15 May 2023
<b>DATE OF PANEL MEETING</b>	18 April 2023
<b>PANEL MEMBERS</b>	Dianne Leeson (Chair), Michael Wright, Stephen Gow, Simon Richardson and Ian Pickles
<b>APOLOGIES</b>	Joe Vescio
<b>DECLARATIONS OF INTEREST</b>	Ian Pickles noted for the record that over 35 years ago, as Chief Town Planner of Byron Shire Council, he was involved in the preparation of Byron Local Environment Plan 1988, which still applies to the site of this proposed development. The Panel considered this declaration and agreed that it does not preclude his involvement as a Panel member.

Papers circulated electronically on 4 May 2023.

#### MATTER DETERMINED

PPSNTH-134 – Byron – 10.2021.575.1 at 15 Torakina Rd, Brunswick Heads – subdivision (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 determined to approve the application for the reasons outlined below.

- The proposed subdivision and associated works to enable urban residential development are permissible with consent in the Byron LEP (1988) 2(a) Residential Zone and are generally consistent with the zone objectives. All such works are contained within the 2(a) zone.
- The site is suitable for the proposed development as it has manageable constraints and is capable of being adequately serviced.
- The proposed development is generally consistent with the Concept Plan Approval (2013) which considered:
  - residential subdivision
  - roads and pedestrian traffic routes
  - rehabilitation of conservation areas
  - dedication of public reserves
  - stormwater management, and
  - bulk earthworks across the subject site
- The proposal, as conditioned by this approval, satisfies the relevant provisions of the applicable SEPPs.
- A Clause 34A (3) Certificate has been issued for the proposed development (30 March 2023), which states:

- *the biodiversity impacts of the proposed development have been satisfactorily assessed before 25 August 2017, and*
- *conservation measures to offset the residual impact of the proposed development on biodiversity values after the measures required to be taken to avoid or minimise those impacts have been secured into the future.*
- Proposed measures which are the subject of conditions of approval are included in the Revised Vegetation Management Plan, Revised Wallum Froglet Management Plan, detailed engineering designs and landscape plans. Compensatory habitat and foraging areas for the wallum froglet, koalas and glossy black cockatoos have been provided with adequate monitoring and management plans.
- The Panel notes provision is made for the dedication of land to Council (Lot 521) and for positive covenants over parts Lot 324 and 402 for conservation (dedication of public reserve) purposes.
- Traffic impacts are manageable and assessed as less than in the original Concept Plan Approval. Appropriate conditions have been imposed requiring the upgrade of the intersection of Bayside Drive and Tweed Street (Old Pacific Highway), and the implementation of traffic control measures throughout the subdivision to mitigate speeds over 40km/h.
- The Rural Fire Service has reviewed the proposal and all recommended conditions have been imposed for management of bushfire risk.
- Finished site levels will be above the FPL (1:100 year flood plus 500mm freeboard).
- The Panel has carefully considered all relevant issues raised in submissions and believes they have been resolved by design of the proposal, management or operational measures to be adopted by the proponent and/or conditions imposed by this approval.

## CONDITIONS


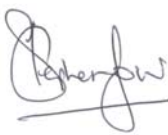



The Development Application was approved subject to the conditions accompanying the Council Memorandum to the Panel (dated 8 May 2023).

## 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:

- Tree removal and habitat degradation
- Aboriginal Cultural Heritage
- Housing density and capacity and continued viability of transport infrastructure
- On-street car parking
- Safety of roadways
- Amenity, privacy and overshadowing

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.

PANEL MEMBERS	
 Dianne Leeson (Chair)	 Stephen Gow
 Michael Wright	 Simon Richards
 Ian Pickles	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSNTH-134 – Byron – 10.2021.575.1
2	PROPOSED DEVELOPMENT	Staged subdivision to create One Hundred and Twenty-Seven (127) Lots comprising of One Hundred and Twenty-three (123) Residential Lots, Three (3) Medium Density Lots, and One (1) Public Reserve, together with associated vegetation management works (tree removal and compensatory planting), Earthworks and Construction of Infrastructure.
3	STREET ADDRESS	15 Torakina Road, Brunswick Heads
4	APPLICANT/OWNER	Newton Denny Chapelle
5	TYPE OF REGIONAL DEVELOPMENT	Coastal subdivision
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 (Biodiversity and Conservation) 2021</li> <li>○ State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>○ State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>○ State Environmental Planning Policy (Planning Systems) 2021</li> <li>○ Byron Local Environmental Plan 1988</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Byron Development Control Plan 2010</li> </ul> </li> <li>• Planning agreements: Nil</li> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i></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 April 2023</li> <li>• Written submissions during public exhibition: 13</li> <li>• Verbal submissions at the public meeting on 18 April 2023: <ul style="list-style-type: none"> <li>○ Bruce Brown</li> <li>○ Council assessment officer – Shannon Burt, Renan Solatan, Chris Soulsby, Jeff Begovic and Jayne Klein (SMEC – Council’s consultant)</li> <li>○ On behalf of the applicant – Damian Chapelle, Damian McCann, Wade Fletcher and James Fletcher</li> </ul> </li> <li>• Council Memorandum received: 4 May 2023</li> <li>• Council Memorandum received: 8 May 2023</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Briefing: 16 February 2022 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Paul Mitchell (Chair), Penny Holloway, Stephen Gow, David Brown and Joe Vescio</li> <li>○ <u>Council assessment staff</u>: Ivan Holland and Chris Larkin</li> <li>○ <u>Department staff</u>: Lisa Foley</li> </ul> </li> <li>• Site inspection: 21 February 2023</li> </ul>

		<ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Dianne Leeson (Chair), Michael Wright and Stephen Gow</li> <li>○ <u>Council assessment staff</u>: Chris Larkin and Renan Solatan</li> <li>• Final briefing to discuss council's recommendation: 18 April 2023 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Dianne Leeson (Chair), Michael Wright, Stephen Gow, Simon Richardson and Ian Pickles</li> <li>○ <u>Council assessment staff</u>: Shannon Burt, Renan Solatan, Chris Soulsby, Jeff Begovic and Jayne Klein (SMEC – Council's consultant)</li> <li>○ <u>Department staff</u>: Carolyn Hunt</li> </ul> </li> </ul>
9	<b>COUNCIL RECOMMENDATION</b>	Approval
10	<b>DRAFT CONDITIONS</b>	Attached to the Council Memo (dated 8 May 2023)