

DETERMINATION AND STATEMENT OF REASONS

NORTHERN REGIONAL PLANNING PANEL

DATE OF DETERMINATION	5 July 2023
DATE OF PANEL DECISION	3 July 2023
PANEL MEMBERS	Dianne Leeson (Chair), Michael Wright, Stephen Gow and Sally Townley
APOLOGIES	Paul Amos
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 16 June 2023.

MATTER DETERMINED

PPSNTH-162 – Coffs Harbour – 1037/22DA at 1A Mclean Street, Coffs Harbour – mixed use development (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.

Application to vary a development standard

Following consideration of a written request from the applicant, made under cl 4.6 (3) of the Coffs Harbour Local Environmental Plan 2013 (LEP), that has demonstrated that:

- compliance with cl. 4.3 (Height of Buildings) is unreasonable or unnecessary in the circumstances; and
- there are sufficient environmental planning grounds to justify contravening the development standard

the Panel is satisfied that:

- the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- the development is in the public interest because it is consistent with the objectives of cl. 4.3 (Height of Buildings) of the LEP and the objectives for development in the E2 zone; and
- the concurrence of the Secretary has been assumed.

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 uphold the Clause 4.6 variation to building height and approve the application, subject to conditions, for the reasons outlined in the Council assessment report.

In addition, Panel was satisfied that:

- noise from the adjoining Coast Hotel can be appropriately mitigated at the receiver by incorporation of acoustic treatments such as double glazing
- the townhouses on Lyster Street to the west of the development will not experience extensive overshadowing attributable to the development

- the incorporation of one level of basement parking, redesign of the western boundary interface and podium plantings are a significant improvement on the original submission
- appropriate conditions have been imposed to manage construction and construction traffic impacts, limit hours of pool use, and address safety concerns.

CONDITIONS

The development application was approved subject to the revised conditions in the council assessment report with the following amendments.

- Amended Condition 3 to read as follows:
Delete the first sentence and insert the following first sentence:
'The development is to be implemented in accordance with the relevant supporting documentation submitted with the application (including but not limited to; Statement of Environmental Effects prepared by Gyde Consulting), and plans endorsed with Council's stamp set out in the following table except where modified by any conditions of this consent (Development Consent No. 1037/22DA).'

- Insert new Condition 9 and renumber the remaining conditions:

CPTED Requirements

A management plan that demonstrates the development's ability to adhere to the principles of Crime Prevention Through Environmental Design shall be produced and include (but is not limited to) details of lighting, secure access, CCTV and the like.

Details demonstrating compliance shall be provided to the written satisfaction of the certifying authority prior to the issue of any construction certificate.

Reason: Safety of future and surrounding occupants.

- Amend former Condition 26, now Condition 27 to by deleting the words:

This plan will include traffic management of short term activities such as delivery of materials; accessing, exiting and parking in and near the work site by cranes, concrete agitator trucks; tradesmen work vehicles and the like.

And insert the following after the word 'network':

This plan will include traffic management of activities related to demolition and excavation; delivery of materials; accessing, exiting and parking in and near the work site by earthmoving trucks, cranes, concrete agitator trucks, tradesmen's work vehicle and the like. The plan must clearly identify proposed queuing and marshalling arrangements for trucks associated with excavation activities.

- Amend former Condition 52, now Condition 53 to read as follows:

Parking Spaces:

52. Prior to the release of an Occupation Certificate car parks are to be provided as per the approved plans and marked per the minimum allocations as follows:

- 94 Residential Tenancy
- 3 Commercial Tenancy
- 22 Visitors
- 1 Deliveries/Visitor

Stacked/tandem parking spaces are both to be allocated to the same residential tenancy and are not to be allocated to any adaptable apartments.

Note: Provisions are to be put in place to ensure visitors can utilize visitor parking spaces within the gated car parking area if required.

In the event spaces allocated to residential tenancies are to be made accessible, compliance with the minimum car parking requirements contained with the Coffs Harbour Development Control Plan must be maintained.

- Delete former Condition 60 and renumber the remaining conditions
- Insert new Condition 69:

Hours of Operation –Swimming Pool

69. Use of the Swimming Pool is to be restricted to the hours of 8am to 10pm. Appropriate signage is to be erected noting pool operating hours.

Reason: To maintain amenity.

- Insert new Condition 70 and renumber the remaining conditions:

Noise –Swimming Pool

70. Noise emanating from the swimming pool filter and pump shall at all times be in accordance with the provisions of the Protection of the Environment (Operations) Act 1997.

Reason: To maintain amenity.

- Insert new Condition 84

Noise – east facing apartments



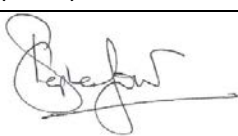

84. Potential purchasers and occupiers of east facing apartments are to be notified of the nature and operation, including hours of operation, of the adjacent hospitality venue (the Coast Hotel).

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:

- impact on amenity of nearby properties
- Impact on rights of nearby properties

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) 	Michael Wright 
Stephen Gow 	Sally Townley 

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSNTH-162 – Coffs Harbour – 1037/22DA
2	PROPOSED DEVELOPMENT	Demolition works and construction of a mixed-use development (commercial premises/residential flat building)
3	STREET ADDRESS	Lot 2 DP 872030 [1A McLean Street, Coffs Harbour 2450]
4	APPLICANT/OWNER	Warwick Bowyer on behalf of the Trustee for Ibis Hotels Coffs Harbour Operations Trust
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 Coffs Harbour City Council Local Environmental Plan 2013 Coffs Harbour City Council Development Control Plan 2015 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Coffs Harbour Development Control Plan 2015 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"> Council assessment report: 16 June 2023 Clause 4.6 Request to vary Height of Building: June 2023 Addendum Council report received: 26 June 2023 Written submissions during public exhibition: seven (7)
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing on site: 5 December 2022 <ul style="list-style-type: none"> <u>Panel members</u>: Stephen Gow (Acting Chair), Cr. Paul Amos, Cr Sally Townley <u>Council assessment staff</u>: Luke Perry and Kenneth Maguire Briefing: 27 October 2022 <ul style="list-style-type: none"> <u>Panel members</u>: Stephen Gow (Acting Chair), Penny Holloway, Paul Amos and Sally Townley <u>Council assessment staff</u>: Luke Perry and Kenneth Maguire <u>Department staff</u>: Carolyn Hunt and Lisa Foley Briefing on site: 10 March 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Dianne Leeson (Chair) Stephen Gow and Michael Wright

		<ul style="list-style-type: none"> ○ <u>Council assessment staff</u>: Gary Cheney • Final briefing to discuss council's recommendation: 28 June 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow, Michael Wright and Sally Townley ○ <u>Council assessment staff</u>: Luke Perry and Rachel Baker ○ <u>Department staff</u>: Carolyn Hunt, Louisa Agyare and Lisa Foley • Applicant Briefing: 28 June 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow, Michael Wright and Sally Townley ○ <u>Council assessment staff</u>: Luke Perry and Rachel Baker ○ <u>Department staff</u>: Carolyn Hunt and Louisa Agyare ○ <u>Applicant representatives</u>: Michael Rodgers, Warwick Bowyer and Mark Schofield <p><u>Note</u>: Applicant briefing was requested to respond to the recommendation in the council assessment report</p>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report, as amended by the addendum Council report