

<b>DATE OF DETERMINATION</b>	19 March 2024
<b>DATE OF PANEL DECISION</b>	19 March 2024
<b>PANEL MEMBERS</b>	Dianne Leeson (Chair), Stephen Gow, Michael Wright, Ned Wales and Pat Miller
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	None

Papers circulated electronically on 4 March 2024.

#### **MATTER DETERMINED**

PPSNTH-172 – Tweed – DA22/0408 at 6 Grand Parade Casuarina – Construction of residential flat buildings comprising 78 residential apartments comprising of 3 x 4 storey buildings and 1 x 2 storey building with a common basement (as described in Schedule 1).

#### **PANEL CONSIDERATION AND DECISION**

The Panel determined to accept the amended application of 22 December 2023 pursuant to s37 of the *Environmental Planning and Assessment Regulation 2001*.

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 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 Panel is satisfied that the design sufficiently addresses the design quality principles and the Apartment Design Guide (ADG) pursuant to SEPP 65 (Design Quality of Residential Apartment Development).
- The Panel is satisfied that the Applicant has demonstrated the design meets the objectives and criteria of the ADG either by strict compliance with the design criteria specified, or on a performance basis. In addition, the Panel notes the design complies with the National Construction Code (NCC).
- The Applicant has responded positively to the Panel's record of Deferral (31 October 2023) and refined key elements to the satisfaction of the Panel, including:
  - Roof form and external facing façade design – Buildings A, B and C
  - Roof profile and materials of Building D
  - Treatment of blank walls proposed to satisfy building separation requirements of the Apartment Design Guidelines (ADG)
  - Natural light and ventilation to habitable areas
  - Provision of deep soil zones
  - Improved provision of bicycle parking, bulky waste management

The Panel notes Council's amended assessment report (28 February 2024) recommended refusal of the Application. Whilst it concluded that the amended plans are an improvement on those previously tendered, Council assessed that issues of residential amenity, consistency with the current and desired future character of the area, and exacerbation of the building's bulk and scale by choice of columns and concrete render warranted refusal. The Panel is satisfied, for the reasons set out above, that these issues have been adequately addressed to grant approval. However, the Panel recommends the Applicant consider opportunities for further improvement particularly with respect to bulk and scale as perceived from Grand Parade and Habitat Way.

The Panel carefully weighed the assessment report and the amended application. In reaching its decision the Panel notes:

- there is little design guidance to inform applicants and the community what is meant by *Australian coastal style* and against which to assess applications
- there is considerable variety in existing building form and style in the local area

Accordingly, and given design performance against the ADGs is achieved, the Panel found that architectural style and materials, or consistency with local context these issues were not sufficient to warrant refusal.

The Panel concluded the proposal is in the public interest as it will contribute to increased housing supply in near to mid-term and generate employment for the local area.

### CONDITIONS

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

- Amend Condition 13 to read as follows:
  13. The developer shall provide 174 parking spaces including parking for persons with a disability and 88 bicycle parking bays in accordance with Tweed Shire Council Development Control Plan Part A2 - Site Access and Parking Code, as a minimum.

Provision shall be made for rapid EV charging facilities in two (2) of the visitor spaces as nominated on the plans. The development shall also include the provision of required infrastructure to enable future EV charging facilities to be installed to all residential car parking spaces.

Full design detail of the proposed parking and manoeuvring areas including integrated landscaping shall be submitted to the Certifier (Council or a Registered Certifier) with the Construction Certificate application for Building Works or the Subdivision Works Certificate application for Subdivision Works.

- Amend Conditions 64 and 65 by deleting the words "the disabled" and inserting the words "persons with a disability"
- Amend Condition 80, dot point 1 by deleting the word "disabled" and inserting the words "persons with a disability"
- Amend Condition 99 to read as follows:
  99. All approved landscaping works in the road reserve must be completed in accordance with the approved Streetscape Landscaping Plan to the satisfaction of the General Manager or his delegate PRIOR to the issue of an Occupation Certificate for the relevant Stage.

All approved landscaping works onsite must be completed in accordance with the approved Landscaping Plan to the satisfaction of the General Manager or his delegate PRIOR to the issue of an Occupation Certificate for the relevant Stage.

Landscaping must be maintained at all times to the satisfaction of the General Manager or delegate.

- Insert new Condition 103, that reads as follows and renumber the remaining conditions accordingly:  
103. Prior to the issue of an Occupation Certificate, the applicant shall submit for the approval of the General Manager or his delegate, an Operational Management Plan to manage the risk associated with charging electric bikes and electric scooters on site, which may include the installation of fire safe charging stations, and the maintenance of a register of e-bike/e-scooter owners.


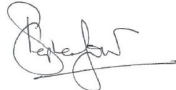
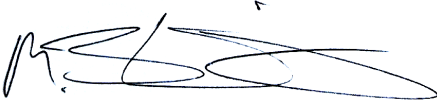
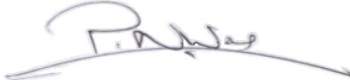

### CONSIDERATION OF COMMUNITY VIEWS

The Panel determined the accepted amendments to the design do not significantly alter the proposed development or its likely impacts to the extent that re-exhibition or notification was required.

In coming to its decision, the Panel considered written submissions made during public exhibition. The Panel notes that issues of concern included:

- Height limit
- Waste Management
- Noise
- Privacy
- Overdevelopment and density
- Streetscape
- Setbacks
- Traffic generation
- Vehicle entry and driveway sight
- Car Parking
- Bicycle parking
- Fences

The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report. The Panel notes that in addressing these issues appropriate conditions have been imposed.

PANEL MEMBERS	
 Dianne Leeson (Chair)	 Stephen Gow
 Michael Wright	 Ned Wales
 Pat Miller	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSNTH-172 – Tweed – DA22/0408
2	PROPOSED DEVELOPMENT	Construction of residential flat buildings comprising 78 residential apartments comprising of 3 x 4 storey buildings and 1 x 2 storey building with a common basement
3	STREET ADDRESS	Lot 46 DP 1264557 6 Grand Parade Casuarina
4	APPLICANT OWNER	Jessica Robson – Town Planning Alliance (NSW) PTY LTD Azure Project 35 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 (Biodiversity &amp; 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 No 65—Design Quality of Residential Apartment Development</li> <li>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>Tweed Local Environmental Plan 2014</li> </ul> </li> <li>Draft environmental planning instruments: Draft Remediation of Land SEPP</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>Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</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: 10 October 2023</li> <li>Council Addendum Assessment Report: 4 March 2024</li> <li>Written submissions during public exhibition: seven (7)</li> <li>Total number of unique submissions received by way of objection: seven (7)</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Briefing: 15 March 2023 <ul style="list-style-type: none"> <li><u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow, Michael Wright, Ned Wales and Pat Miller</li> <li><u>Council assessment staff</u>: Judith Evans and Colleen Forbes</li> <li><u>Department staff</u>: Carolyn Hunt and Kim Johnston</li> </ul> </li> <li>Site inspection: 12 September 2023 <ul style="list-style-type: none"> <li><u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow, Michael Wright, Ned Wales and Pat Miller</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>○ <u>Council assessment staff</u>: Kim Johnston – Independent Planning Consultant</li> <li>• Applicant Briefing: 23 October 2023 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow, Michael Wright, Ned Wales and Pat Miller</li> <li>○ <u>Applicant representatives</u>: Jessica Robson, Trent Kiernan, Paul Plasto, Clinton Amble, Vu Nguyen, John Flynn, Eleas Nicholaou, Chris Schroor</li> <li>○ <u>Council assessment staff</u>: Valerie Conway and Jonathon Lynch</li> <li>○ <u>Independent Consultant Planner</u>: Kim Johnston</li> <li>○ <u>Department staff</u>: Carolyn Hunt, Louisa Agyare and Lisa Ellis</li> </ul> </li> <li>• Final briefing to discuss Council’s recommendation: 23 October 2023 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow, Michael Wright, Ned Wales and Pat Miller</li> <li>○ <u>Council assessment staff</u>: Valerie Conway and Jonathon Lynch</li> <li>○ <u>Independent Consultant Planner</u>: Kim Johnston</li> <li>○ <u>Department staff</u>: Carolyn Hunt, Louisa Agyare and Lisa Ellis</li> </ul> </li> <li>• Applicant Briefing: 12 March 2024 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow, Michael Wright, Ned Wales and Pat Miller</li> <li>○ <u>Applicant representatives</u>: Jessica Robson, Trent Kiernan, Paul Plasto, Vu Nguyen, John Flynn, Chris Schroor and Zac Eracakis</li> <li>○ <u>Council assessment staff</u>: Judith Evans and Valerie Conway</li> <li>○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis</li> </ul> </li> <li>• Final briefing to discuss Council’s recommendation: 12 March 2024 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow, Michael Wright, Ned Wales and Pat Miller</li> <li>○ <u>Council assessment staff</u>: Judith Evans, Valerie Conway</li> <li>○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Attached to the Council Assessment Report