

<b>DATE OF DETERMINATION</b>	17 June 2024
<b>DATE OF PANEL DECISION</b>	17 June 2024
<b>DATE OF PANEL MEETING</b>	12 June 2024
<b>PANEL MEMBERS</b>	Michael Wright (Chair), Stephen Gow, Stephen Murray, Ned Wales and Pat Miller
<b>APOLOGIES</b>	Dianne Leeson
<b>DECLARATIONS OF INTEREST</b>	None

Public meeting held by teleconference on 12 June 2024, opened at 10.02am and closed at 10.27am.

#### **MATTER DETERMINED**

PPSNTH-219 – Tweed – DA23/0209 at 16-32 Wharf Street and 36 Bay Street, Tweed Heads – Concept Development Application for the staged redevelopment of the Tweed Mall site comprising a site layout strategy including location of open space and landscaping, vehicle and pedestrian thoroughfares, building envelopes, and indicative uses of shopping centre, office, residential and tourist and visitor accommodation at 16 – 32 Wharf Street, Tweed Heads (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 in the Council Assessment Report.

#### **CONDITIONS**

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

- Amend Deferred Commencement Condition 1(a) to read as follows:
  - a. Inclusion of a 'ground level' building envelope plan which documents ground level building separation / laneway widths and delineation of public domain and deep soil zone areas that align with the Street Level Open Space Structure Plan and Street Level Deep Soil Structure Plan within the Urban Design Guidelines and inclusion of a minimum 15m laneway width where the North-south Street interfaces with Bay Street and where the East West Street interfaces with the Wharf Street frontage;
- Delete Deferred Commencement 1(b) and (d) and renumber the remaining part accordingly

- Amend Deferred Commencement Condition 2 to include the words 'prepared by Chrofi and dated 03/04/2024 (Rev A)' after the words Design Guidelines (UDG) in the first sentence
- Amend Deferred Commencement Condition 3 to read as follows:
  3. Before the Council determines the suitability of Items 1 and 2 above, the applicant is to participate in an additional DRP session (coordinated by Council) for review of the amended UDG, which will be at the applicant's cost.
- Amend General Condition - Condition 2 to read as follows:
 

**Condition 2 Future Applications**

Separate Development Applications are to be submitted to and approved by the consent authority in respect of each stage of the development, incorporating permitted land uses and basement parking.

**Condition reason:** To ensure correct approval pathway is undertaken
- Amend General Condition - Condition 4 to read as follows:
 

Condition 4 Future Staging

The development shall be undertaken in the following sequential order:

**Stage 1:**

  - Demolition of all existing buildings in the south east corner of the site;
  - Construction of podium, new buildings Fa, Fb, G, H and J and associated public domain in the south east corner, and opening of new retail;
  - Decommissioning of original supermarkets and shops and demolition of remaining buildings on site and make good; and
  - Basement parking.

**Stage 2:**

  - Demolition of all existing buildings along the northern edge of the site;
  - Construction of podium, new buildings A, B-a, B-b, B-c and associated public domain along the northern edge of the site facing Bay Street; and
  - Basement parking.

**Stage 3:**

  - Demolition of all existing buildings along the western edge of the site facing Wharf Street;
  - Construction of podium, new buildings C, D, E-a, and E-b, and associated public domain along the western edge of the site facing Wharf Street; and
  - Basement parking.

**Condition reason:** To ensure consistency with the approved documents
- Amend General Condition 9 to read as follows:
 

**9. Flood Risk Management**

Development applications for each stage shall be accompanied by a Flood Response Assessment Plan prepared by a suitably qualified Engineer. The Flood Response Assessment Plan shall consider both existing and future (climate change) flood risk and is required to address the relevant flood provisions of Council's Local Environmental and Development Control Plans for the site. The Flood Response Assessment Plan shall outline appropriate measures, commensurate with scale and flood risk, that are to be integrated into the development to enable safe evacuation – and, if necessary, safe occupation during periods of isolation in extreme floods.

**Condition reason:** To ensure the development complies with all relevant flooding controls and appropriately manages risk to life from flooding

- Amend General Condition - Condition 27 to read as follows:

**27. Traffic Signal Upgrades**

Future development applications for each stage are to demonstrate that the existing filtered right turn movements at the intersection of Wharf Street and Bay Street are suitable for the increased pedestrian and right turn movements in this vicinity. Evidence of consultation with Transport for NSW with regard to any required upgrade of signals in consideration of the additional pedestrian / vehicle movements at this intersection is to be provided.

**Condition reason:** To ensure compliance with relevant standards

- Amend General Condition - Condition 31 to read as follows:

**31. Traffic Management Upgrades**

Evidence of consultation with Transport for NSW is required for any future development application incorporating new traffic control signal installations. The applications must be supported by a detailed Traffic and Transport Impact Assessment which demonstrates compliance with all relevant standards for traffic signals.

**Condition reason:** To ensure compliance with relevant standards.

- Insert new General Condition - Condition 36 which reads as follows:

**37. Economic Impact Assessment**

Development applications for each stage shall be accompanied by a Socio Economic Impact Assessment prepared by a suitably qualified consultant. The Economic Impact Assessment is required to address Council's Development Control Plan A13 – Socio Economic Impact Assessment and Tweed Shire Council's Retail Strategy.

**Condition reason:** To ensure compliance with relevant controls

## **CONSIDERATION OF COMMUNITY VIEWS**

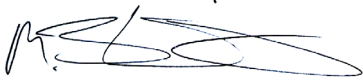
In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the Panel. The Panel notes that issues of concern included:

- Traffic impact
- Excessive scale
- Construction noise and dust impact
- Overshadowing/solar impact
- Length of construction
- Over development
- Building height
- Lack of parking
- View loss
- Vibration impact
- Impact on surrounding retail
- Noise impact and odour pollution
- Wind tunnelling
- Public transport linkages
- Lack of community consultation
- Inconsistency between documents

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.

In addition, the Panel would encourage the applicant to undertake an active community consultation process (ie. shop front, on-site consultation) for future applications.

PANEL MEMBERS



Michael Wright (Chair)



Stephen Gow



Stephen Murray



Pat Miller



Ned Wales

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSNTH-219 – Tweed – DA23/0209
2	PROPOSED DEVELOPMENT	Concept Development Application for the staged redevelopment of the Tweed Mall site comprising a site layout strategy including location of open space and landscaping, vehicle and pedestrian thoroughfares, building envelopes, and indicative uses of shopping centre, office, residential and tourist and visitor accommodation at 16 – 32 Wharf Street, Tweed Heads
3	STREET ADDRESS	16-32 Wharf Street and 36 Bay Street, Tweed Heads
4	APPLICANT/OWNER	Elanor Funds Management Limited c/o Sutherland & Associates Planning Elanor Funds Management Limited
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 (Biodiversity and Conservation) 2021</li> <li>State Environmental Planning Policy (Sustainable Buildings) 2022</li> <li>State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development</li> <li>State Environmental Planning Policy (Housing) 2021</li> <li>State Environmental Planning Policy (Planning Systems) 2021</li> <li>State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>Tweed Local Centre Local Environmental Plan 2012</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>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: 28 May 2024</li> <li>Written submissions during public exhibition: 59</li> <li>Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>Council assessment officer – Colleen Forbes</li> <li>Bernard Sweeney and Richard Mason</li> <li>On behalf of the applicant – John Choi and Ben Mah Chut</li> </ul> </li> <li>Total number of unique submissions received by way of objection: 56</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Briefing: 23 October 2023 <ul style="list-style-type: none"> <li><u>Panel members</u>: Dianne Leeson (Chair), Michael Wright, Stephen Gow, Ned Wales and Pat Miller</li> <li><u>Council assessment staff</u>: Colleen Forbes</li> <li><u>Applicant representatives</u>: Aaron Sutherland, Ben Mah-Chut, Richard Crampton, John Choi and Mike Horne</li> <li><u>Department staff</u>: Carolyn Hunt, Lisa Ellis, Louisa Agyare</li> </ul> </li> </ul>

		<ul style="list-style-type: none"><li>• Site inspection: 12 September 2023<ul style="list-style-type: none"><li>○ <u>Panel members</u>: Dianne Leeson (Chair), Michael Wright, Stephen Gow and Pat Miller</li><li>○ <u>Council assessment staff</u>: Colleen Forbes and Denise Galle</li></ul></li><li>• Final briefing to discuss council’s recommendation: 12 June 2024<ul style="list-style-type: none"><li>○ <u>Panel members</u>: Michael Wright (Chair), Stephen Gow, Stephen Murray, Pat Miller and Ned Wales</li><li>○ <u>Council assessment staff</u>: Colleen Forbes, Ray Clark, Rod Dawson, Jonathon Lynch, Mark Roworth, Brendan Schwarz, Kelly Edwards, Kelly Piazza, Leon McLean and David Bell</li><li>○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis</li></ul></li></ul>
9	COUNCIL RECOMMENDATION	Approval (Deferred Commencement)
10	DRAFT CONDITIONS	Attached to the Council Assessment Report