

Design Review Panel Referral

Doc.# A2023/31072

DA 10.2021.384.3 90-96 Jonson Street Byron Bay

Comments:

The Design Excellence Panel (DEP) members have met at various times and discussed the modifications proposed to development application 2021/384 and issued subsequent written advice dated 17 August 2023 which remains relevant as per meeting 31 October 2023. In summary:

- In determining whether the design is 'substantially the same' in accordance with s 4.55 (b) as the approved DA it is the Panel's view that although the quantum of development, the overall massing and mix of uses is substantially the same, the materials, environmental control element, fenestration are not.
- Given that these are matters that are required to be considered and endorsed by the Panel as exhibiting 'design excellence' the design is not substantially the same because the 'excellence of the design' has been substantially reduced.
- Furthermore, in accordance with s 4.55(3), the consent authority must take into account the reasons given by the consent authority for the grant of the consent that is sought to be modified. In relation to this proposal those reasons included quality and type of materials, fenestration and general contextual fit, as well as all of the matters previously referred to in this document that were developed through the consultative process outlined above, and which then were endorsed by the panel as exhibiting design excellence.
- As such the Panel does not endorse the Modification as 'exhibiting design excellence'.

Shannon Burt

Referral Officer Name (please print)

Signature:



Date: 10/11/23

Modification of 10.2021.384.3 90-96 Jonson Street 'design excellence' considerations

17 August 2023

Author: Roderick Simpson

Keypoints:

1. The proposal development is subject to BSCLEP 2014 **cl 6.13 Design excellence-Byron Bay town centre** and meets the criteria set out in 6.13 (5) being the erection of a new building.
2. Development consent must not be granted for development to which this clause applies unless the consent authority considers that the development exhibits design excellence and because the development is subject to cl 6.13 (5) development consent **must not** be granted to the following development unless the **Byron Design Excellence Panel** has endorsed the development as exhibiting design excellence.
3. The proposal is a modification of Approval
4. The Panel has previously provided comment on the positive, neutral and negative aspects of the modification in relation to the Approved design.
5. The purpose of this document is to focus on the aspects that are considered to reduce the quality of the approved design to the extent that the modified design no longer exhibits design excellence.
6. These matters are specifically:
 - (a) *a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved, and*
 - (b) *the proposed development responds well to the environmental and built characteristics of the site and achieves an acceptable relationship with other buildings on the same site and on neighbouring sites, and*
 - (c) *Preserve Byron Bay's eclectic village character through increased density and high quality design.*
 - (d) *the form and external appearance of the development will improve the quality and amenity of the public domain, including by encouraging social activity and casual surveillance in public places, streets and laneways,*
7. As provided in previous advice, in evaluating the design quality of a proposal in relation to these matters the Panel refers to the Byron Bay Town Centre Master Plan and the BBDCP.
8. The Byron Bay Town Centre Master Plan sets out a range of 'place principles', 'strategies' and 'sub-strategies'. These are summarised well in a single 'place principle':

Preserve Byron Bay's eclectic village character through increased density and high quality design.
9. How this might be achieved is set out in 'sub-strategies' that include
 - A Varied and Defined Centre relates to building heights and spatial definition
 - A Fine Grain Village Character relates to subdivision pattern or the *appearance* of a fine grain subdivision pattern
 - A Sub Tropical Built Form relates to materials, colours, architectural forms and elements that are a response to the sub-tropical climate

10. It could be argued that many or all of these terms are only 'loosely defined' and may be interpreted in a wide range of ways. This includes the terms "architectural forms and elements that are a response to the sub-tropical climate", "appearance of a fine grain subdivision pattern". "eclectic village character" "responds well to the environmental and built characteristics of the site" "high standard of architectural design", "materials and detailing appropriate to the building type and location".
11. The Panel recognises the difficulty of defining these terms precisely and this is the reason why applicants are encouraged to present and discuss concept schemes to the Panel at Pre-DA stage.
12. This is the process that was undertaken by the original applicant in consultation and with input from the Panel to achieve a design that included vegetation, materials, articulation, environmental control elements that contribute to the architectural expression and that achieved a 'subtropical character, and gives the appearance of fine grain and fit with its context.
13. This could be termed a collaborative heuristic approach that is entirely appropriate in the absence of clear definitions. In any case, precise definitions as noted above, would be difficult and in many respects undesirable, because precise definitions also come with a degree of inflexibility that invariably reduces the potential for a contextual response which is the essence of good architecture.
14. It should be noted that this process was not unduly onerous, did not extend the duration of design and assessment, and was both accepted and welcomed by the original applicant.
15. It should also be noted that there have been a number of DA's submitted in the town centre since the introduction of the 'Design Excellence provisions' which have been developed in a similar manner in consultation with the Panel.
16. The common approaches in these design to materials, fenestration, use of environmental controls elements, porosity at the block, lot, building and individual unity level, the use of external circulation, the introduction of planters and roof top vegetation and elements that provide shade and shelter to the public domain, in effect serve to define an emerging 'Byron Bay town centre style"
17. In this light, the changes appear arbitrary and given no regard to the process already undertaken or to the other development in the centre.
18. It is for these reasons that the Panel does not endorse the Modification as 'exhibiting design excellence'
19. Furthermore, in determining whether the design is 'substantially the same' in accordance with s 4.55 (b) as the approved DA it is the Panel's view that although the quantum of development, the overall massing and mix of uses is substantially the same, the materials, environmental control element, fenestration are not.
20. Given that these are matters that are required to be considered and endorsed by the Panel as exhibiting 'design excellence' the design is not substantially the same because the 'excellence of the design' has been substantially reduced.
21. Furthermore, in accordance with s 4.55(3), *the consent authority must take into account the reasons given by the consent authority for the grant of the consent that is sought to be modified.* In relation to this proposal those reasons included quality and type of materials, fenestration and general contextual fit, as well as all of the matters previously referred to in this document that were developed through the consultative process outlined above, and which then were endorsed by the panel as exhibiting design excellence.