

DATE OF DETERMINATION	25 October 2024
DATE OF PANEL DECISION	25 October 2024
DATE OF PANEL BRIEFING	23 October 2024
PANEL MEMBERS	Dianne Leeson (Chair), Stephen Gow, Michael Wright, Pat Miller and John Byrne
APOLOGIES	Ned Wales
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 8 October 2024.

MATTER DETERMINED

PPSNTH-297 – Tweed – DA21/0949.01 – 6, 8, 10, 12 Powell Street & 33, 35, 37 Florence Street, Tweed Heads – Section 4.55(2) modification to Seniors Housing development for demolition of existing dwelling and construction of 95 residential units, a swimming pool, signage, lot consolidation and tree removal (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 briefings listed at item 8 in Schedule 1.

Application for modification of consent

The Panel determined to approve the modification application pursuant to section 4.55 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 following reasons, including those set out in Council's Assessment Report:

1. The proposal is substantially the same development as that approved and the impact of the proposal, as amended, is considered acceptable.
2. The proposal remains consistent with the zone objectives.
3. The further variation to the maximum permitted height to enable a lift overrun remains consistent with the objectives of the relevant clauses in SEPP Housing 2021 and TCCLEP 2012 in terms of height, bulk and scale. The additional elements will not be visible from street level.
4. Relocation of the substation is necessary to satisfy Essential Energy requirements and will not cause unacceptable impact.
5. Construction related impacts prolonged through the proposed staging of the development can be adequately mitigated through application of conditions of consent.
6. The Panel remains satisfied that impacts associated with the proposed development can be adequately mitigated and that the proposal is in the public interest.

CONDITIONS

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



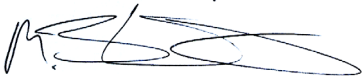


- Amend Condition 13A to remove from the first sentence ‘/issue of occupation certificate **for Stage 1**’
- Delete Condition 14 and replace with new Condition 14A, which reads as follows:
14A. Peep holes are to be incorporated into the front doors of all dwellings to allow residents to see anyone approaching their dwelling.
- Amend Condition 21A to insert the word ‘carparking’ prior to the word ‘spaces’ in the first sentence.
- Correct the typographical error in Condition 23A, in the bolded sentence below the tables, for the work ‘CONSENT’
- Delete Condition 40 and insert new Condition 40A, which reads as follows:
40. Prior to issue of Construction Certificate for each stage of the development, a detailed plan of landscaping shall be submitted to Council and approved by Council's General Manager or delegate.
The detailed plan of landscaping shall include the following:
 - (a) A minimum of 80% locally occurring Australian native species and maximum of 20% non-locally occurring Australian native species to apply to all trees elsewhere
 - (b) A minimum of 80% locally occurring Australian native species and maximum of 20% Australian native or exotic species to apply to other plants (shrubs, ground cover and similar) elsewhere.
 - (c) No environmental weed species
 - (d) Where fencing is proposed within the Tree Protection Zone of Tree. No. 55 *Corymbia citriodora* (Lemon-scented Gum) identified in Preliminary Arborist Report Version 1.2 dated 12 August 2022 prepared by Zone Landscape Architecture, fencing shall be of post and rail design, or as otherwise approved by Council's General Manager or delegate, to minimise tree root disturbance.
 - (e) Where fencing is proposed at the southern boundary of the site (at the Florence Street interface), the fencing is to be amended to satisfy the design objectives provided below:
 - i. Stage 1: Fencing treatments and material selection detail is to be provided to highlight building entries/access points and detail a variation to material selections to that provided in the stamped approved plans. The design objective of the fencing treatment and adjacent ground level built form is to aid visual permeability and a sense of engagement from the ground floor of Building B to the public domain at the location in the vicinity of the approved PMT.
 - ii. Stage 2: Fencing treatment and material selection detail at the southern boundary of the site (at the Florence Street interface) is to be provided. The fencing design detail shall be provided to aid opportunities for passive surveillance from the ground floor of Building C to the public domain while ensuring fencing height and other access control measures prevent inappropriate access to the private development from the public domain of the street).
- Amend Condition 137.1 to insert the word ‘traffic’ in the last sentence, after the word ‘vehicular’

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:

- Increased height
- Sun reflectivity
- Setback
- Removal of eucalyptus tree

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	 John Byrne
 Pat Miller	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSNTH-297 – Tweed – DA21/0949.01
2	PROPOSED DEVELOPMENT	Section 4.55(2) modification to Seniors Housing development for demolition of existing dwelling and construction of 95 residential units, a swimming pool, signage, lot consolidation and tree removal
3	STREET ADDRESS	6, 8, 10, 12 Powell Street & 33, 35, 37 Florence Street, Tweed Heads
4	APPLICANT OWNER	Jarrold Gillies – Zone Planning THRV2 Pty Ltd & THRV Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Section 4.55(2) Modification Application
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 State Environmental Planning Policy Transport and Infrastructure) 2021 State Environmental Planning Policy (Housing) 2021 State Environmental Planning Policy (Biodiversity and Conservation) 2021 Tweed City Centre Local Environmental Plan 2012 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Tweed Shire Development Control Plan 2008 Planning agreements: Nil Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> 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: 8 October 2024 Written submissions during public exhibition: 2 Total number of unique submissions received by way of objection: 2
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Applicant Briefing: 23 October 2024 <ul style="list-style-type: none"> <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow, Michael Wright, Pat Miller and John Byrne <u>Applicant representatives</u>: Jarrold Gillies, Darren Gibson, Ian Pert, Tony Feitelson, Frank Raunik <u>Council assessment staff</u>: Hannah Van de Werff, Colleen Forbes, Jack Curran <u>Department staff</u>: Carolyn Hunt and Lisa Ellis Final briefing to discuss Council's recommendation: 23 October 2024 <ul style="list-style-type: none"> <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow, Michael Wright, Pat Miller and John Byrne <u>Council assessment staff</u>: Hannah Van de Werff, Colleen Forbes, Jack Curran <u>Department staff</u>: Carolyn Hunt and Lisa Ellis

9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report