

DETERMINATION AND STATEMENT OF REASONS

NORTHERN REGIONAL PLANNING PANEL

DATE OF DETERMINATION	11 December 2024
DATE OF PANEL DECISION	11 December 2024
DATE OF PANEL BRIEFING	10 December 2024
PANEL MEMBERS	Dianne Leeson (Chair), Michael Wright, Ian Pickles and David Brown
APOLOGIES	Joe Vescio
DECLARATIONS OF INTEREST	Stephen Gow declared a conflict of interest as he previously voted to refuse original development application that was determined by the Land and Environment Court. He did not participate in the meeting. Simon Richardson was satisfied that his presence may be considered a conflict of interest by the applicant and did not participate in the meeting.

Papers circulated electronically on 27 November 2024.

MATTER DETERMINED

PPSNTH-329 – Byron – 10.2017.661.2 – Lot 1 DP 201626 and Lot 7020 DP 1113431 Ewingsdale Road, 288, 364, 394 and 412 Ewingsdale Road and Lot 2 DP 818403 Melaleuca Drive, Byron Bay – Section 4.56 to modify condition of consent number five and staging of development located in the eastern section of the West Byron Urban Release Area (WBURA) in order to allow for Stages 11 and 12 in the western section of the site to proceed concurrently, separately and non-sequentially with stages 1-10 (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 listed at item 8 in Schedule 1.

Application for modification of consent

The Panel determined to approve the development application pursuant to section 4.56 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 the Council's Assessment and Addendum Reports:



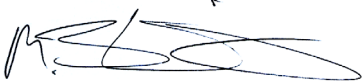

1. The proposal is substantially the same development as that approved and the impact of the proposal, as amended, is considered acceptable
2. Road access to Stages 11 and 12 has been provided satisfactorily addressing the substantive precondition to commencement of those stages
3. The proposal remains consistent with the zone objectives, and
4. The Panel remains satisfied that impacts associated with the proposed development can be adequately mitigated through the imposition of conditions and that the proposal is in the public interest.

CONDITIONS

The Development Application was approved subject to the conditions in the Council Addendum Report.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel notes that no written submissions were made during public exhibition and therefore no issues of concern were raised.

PANEL MEMBERS	
 Dianne Leeson (Chair)	 Ian Pickles
 Michael Wright	 David Brown

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSNTH-329 – Byron – 10.2017.661.2
2	PROPOSED DEVELOPMENT	Section 4.56 to modify condition of consent number five and staging of development located in the eastern section of the West Byron Urban Release Area (WBURA) in order to allow for Stages 11 and 12 in the western section of the site to proceed concurrently, separately and non-sequentially with stages 1-10
3	STREET ADDRESS	Lot 1 DP 201626 and Lot 7020 DP 1113431 Ewingsdale Road, 288, 364, 394 and 412 Ewingsdale Road and Lot 2 DP 818403 Melaleuca Drive, Byron Bay
4	APPLICANT/OWNER	Stuart Murray (Site Research and Development Pty Ltd) Gousse Holdings Pty Ltd, Telicove Pty Ltd, DJ and CF O'Connor, Byron Shire Council, AR and JD Smith and Fletcher Project Developments Pty Ltd, Byron Bay Industrial Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Section 4.56 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 (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Planning Systems) 2021 Byron Local Environmental Plan 1988 Draft environmental planning instruments: Byron Local Environmental Plan 2014 (Council Reference 26.2023.7.1 – West Byron Zone transition PP, Portal Reference PP-2023_2829) Development control plans: <ul style="list-style-type: none"> Byron Development Control Plan 2014 Planning agreements: Voluntary Planning Agreement (VPA) 2013/8948 - executed on 21 October 2014 between the Minister for Planning and the Byron Bay West Landowners Association (the developer) on Lots described as 5/DP622736, 6/DP622736, 1/DP542178, 227/DP755695, 229/DP755695, 9/DP111821, 1/DP1166535, 1/DP201626, 2/DP542178, 1/DP780242, 2/DP818403 and 1/DP520063. The executed agreement facilitates the delivery of the developer's contribution towards the provision of regional infrastructure and to ensure conservation land is appropriately rehabilitated and maintained. 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: 26 November 2024 Council Addendum Report received: 9 December 2024 Written submissions during public exhibition: 0 Total number of unique submissions received by way of objection: 0
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 22 October 2024 <ul style="list-style-type: none"> <u>Panel members</u>: Dianne Leeson (Chair), Michael Wright and Joe Vescio

		<ul style="list-style-type: none"> ○ <u>Council assessment staff</u>: Patricia Docherty and Shannon Burt ○ <u>Department staff</u>: Carolyn Hunt <ul style="list-style-type: none"> ● Applicant Briefing: 10 December 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Dianne Leeson (Chair), Michael Wright, Ian Pickles and David Brown ○ <u>Applicant representatives</u>: Stuart Murray ○ <u>Council assessment staff</u>: Chris Larkin ○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis ● Final briefing to discuss Council's recommendation: 10 December 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Dianne Leeson (Chair), Michael Wright, Ian Pickles and David Brown ○ <u>Council assessment staff</u>: Chris Larkin ○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Addendum Report