**PPSNTH-409 DA10.2022.371.4 29 SHIRLEY ST BYRON BAY**

**DRAFT REASONS FOR REFUSAL**

1. Pursuant to Section s4.55(2)(a) of the *Environmental Planning and Assessment Act 1979,* the proposed modification is not substantially the same development for which consent was originally granted and before that consent as originally granted was modified.
2. Pursuant to Section 4.55(3) of the *Environmental Planning and Assessment Act 1979*, the proposed modified development is not consistent with the reasons given by the consent authority for the granting of the consent that is sought to be modified.
3. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the application is inconsistent with Chapter 2 Coastal Management, Section 2.11 of the State Environmental Planning Policy (Resilience and Hazards) 2021.
4. The proposed modification is likely to adversely impact on the visual amenity and scenic qualities of the coast which is adjacent to the proposal. S2.11(1)(a)(iii)
5. The additional height and bulk together with the appearance of people at an upper level, adjacent to the coast is inconsistent with the existing scenic qualities of the coast. S2.11(1)(a)(iii)
6. The proposal has not demonstrated it does not have an adverse impact on the adjacent heritage conservation area. S2.11(1)(a)(v)
7. The bulk, scale and size of the proposed development impacts negatively on the surrounding coastal and built environment. S2.11(1)(c)
8. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed modification is inconsistent with section 142(1)(b) and s142(1)(c) of the *State Environmental Planning Policy (Housing) 2021*. The modifications do not achieve better built form and aesthetics of buildings, streetscapes and public spaces. The modifications do not maximise the amenity, safety and security of the community.
9. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed modification is inconsistent with Chapter 4 and Schedule 9 Principle 1, 2 and 6 of Design of residential apartment development of the *State Environmental Planning Policy (Housing) 2021.*
10. The modifications do not achieve good design that responds to and contributes to its context (Schedule 9, Principle 1).
11. The modifications do not result in good design that achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings (Schedule 9, Principle 2).
12. The modifications do not positively influence internal and external amenity for residents and neighbours or contributes to positive living environments and resident well-being (Schedule 9, Principle 6).
13. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed modification is inconsistent with Clause 4.3 Height of Buildings of Byron Local Environmental Plan 2014. The proposed development breaches the maximum height of buildings development standard of 9m.
14. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed modification is inconsistent with Clause 40 Height of Byron Local Environmental Plan 1988. The proposed development breaches the maximum height of buildings development standard of 9m.
15. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed modification is inconsistent with the objectives of the R3 Medium Density residential Zone of Byron Local Environmental Plan 2014.
16. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed modification is inconsistent with the objectives of the 7(F)2 Urban coastal Land Zone of Byron Local Environmental Plan 1988.
17. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed modification is inconsistent with Clause 32 (3)(d) of BLEP1988.
18. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposed modification is inconsistent with objective 2 of Chapter D1.2.6 Character and Visual Impact of BDCP2014. The proposed development does not respect and complement the area’s natural and built environment that is important to its existing character.
19. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposed modification is inconsistent with residential character narrative of BDCP2014 Chapter E5.8.3 Design Considerations.
20. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposed modification is inconsistent with BDCP2014 Chapter C1.1.3 (5) The proposed increase in building height does not respect the heritage context and is not sympathetic in terms of its form, scale, character, bulk, and is likely to adversely affect the components of Heritage Conservation Areas and their settings.
21. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposed modification is inconsistent with BDCP2010 Chapter 1 Part C3.1 Visual Impact. The proposed modification does not reasonably integrate with the existing built and natural environment.
22. Pursuant to Section 4.15(1)(a)(iv) of the *Environmental Planning and Assessment Act 1979,* insufficient information was provided the demonstrate compliance withClause 102(2)(c) of the Environmental Planning and Assessment Regulation 2021.
23. Pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979,* the proposed modification is likely to adversely impact the natural and built environments of the locality.
24. Pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, the proposed modification is not in the public interest. The impacts of the excessive building height, impacts on the streetscape and built environment, amenity impacts on the locality will set an undesirable precedent.