DETERMINATION AND STATEMENT OF REASONS

NORTHERN REGIONAL PLANNING PANEL

DATE OF DETERMINATION	14 September 2020
PANEL MEMBERS	Paul Mitchell (Chair), Penny Holloway, Stephen Gow, Tegan Swan and George Cecato
APOLOGIES	Denise Knight
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 4 September 2020.

MATTER DETERMINED

PPSNTH-47 – Coffs Harbour City Council – 0918/20DA at Arthur Street, Coffs Harbour – Seniors housing (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.

Application to vary a development standard, made under cl 4.6 (3)

The panel resolved to not uphold the written request of the applicant to contravene the Height of Buildings development standard in cl.4.3 of the Coffs Harbour Local Environmental Plan 2013 (LEP) made in accordance with cl 4.6 (3) of the LEP.

This decision was not unanimous. Tegan Swan and George Cecato voted in favour of upholding the written request of the applicant.

REASONS FOR THE DECISION

Being mindful of both the high standard of decision required by cl 4.6 - that "consent must not be granted for development that contravenes a development standard unless." the specified criteria are met - and the substantial variation requested in this instance (ie exceedance of the height standard by 150%), the majority of the panel declines to uphold the applicant's request. The majority believes that the request does not demonstrate that compliance with the height of buildings standard is unreasonable or unnecessary because the variation would be inconsistent with applicable R3 zone objectives, specifically:

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.

The majority opinion is that the proposal would not provide housing within a medium density residential environment.

Moreover, the majority believes the proposal would be inconsistent with relevant objectives of the standard, specifically:

(a) to ensure that building height relates to the land's capability to provide and maintain an appropriate urban character and level of amenity;
(d) to enable a transition in building heights between urban areas having different characteristics; and
(e) to limit the impact of the height of a building on the existing natural and built environment.

Further, the majority considers that approval of the proposal would be contrary to the public interest because the development would be inconsistent with applicable zone and building height objectives and the substantial magnitude of the variation would diminish the integrity of development standards in the CHLEP 2013.

Cr Swan and Cr Cecato disagreed with the majority decision as they believe that compliance with the standard would be unreasonable because the standard had been abandoned on the site by previous decisions of the panel and unnecessary because the density of development due to the variation would not increase. The minority also believes that sufficient planning grounds exist to demonstrate that the variation is justified, principally that a superior building design would result. Moreover, for the reasons given above, the minority believes that the development as varied would be in the public interest.

Development application
The panel was therefore not able to consider the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

CONDITIONS
Not applicable

CONSIDERATION OF COMMUNITY VIEWS
In coming to its decision, the panel considered written submissions made during public. The panel notes that 104 of the submissions received by Council were in favour of the development application. The issues of concern in the objection included:

- Potential obstruction of pedestrian and motorists' views by a sandstone wall with development signage
- Local traffic speed limit requires reduction
- The need for an additional pedestrian refuge on Arthur Street

The panel did not consider the submissions in detail as the matter did not proceed beyond consideration of the written request of the applicant to contravene the Height of Buildings development standard in cl.4.3 of the Coffs Harbour Local Environmental Plan 2013 (LEP) made in accordance with cl 4.6 (3) of the LEP.

PANEL MEMBERS	
Paul Mitchell OAM (Chair)	Penny Holloway
Stephen Gow	Tegan Swan
George Cecato	

SCHEDULE 1		
1	**PANEL REF – LGA – DA NO.**	PPSNTH-47 – Coffs Harbour City Council – 0918/20DA
2	**PROPOSED DEVELOPMENT**	Seniors Housing (16 Self-contained dwellings in Building A and 57 self-contained dwellings in Building B and alterations and additions to enclose building C/D car parking)
3	**STREET ADDRESS**	York St, Coffs Harbour (Lot 4 of DP 1263001)
4	**APPLICANT** **OWNER**	Mr Mick Carah Rowville Park Pty Limited
5	**TYPE OF REGIONAL DEVELOPMENT**	General development over $30 million
6	**RELEVANT MANDATORY CONSIDERATIONS**	• Environmental planning instruments: o State Environmental Planning Policy (State & Regional Development) 2011 o State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 o State Environmental Planning Policy (Coastal Management) 2018 o State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 o State Environmental Planning Policy (Infrastructure) 2007 o Coffs Harbour Local Environmental Plan 2013 • Draft environmental planning instruments: Nil • Development control plans: o Coffs Harbour Development Control Plan 2015 • Planning agreements: Nil • Provisions of the *Environmental Planning and Assessment Regulation 2000*: Nil • 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 *Environmental Planning and Assessment Act 1979* or regulations • The public interest, including the principles of ecologically sustainable development
7	**MATERIAL CONSIDERED BY THE PANEL**	• Council assessment report: 3 September 2020 • The clause 4.6 variation request to vary the height of buildings standard provided to the panel on 4 September 2020 • Written submissions during public exhibition: 105 • Total number of unique submissions received by way of objection: one (1)
8	**MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL**	• Site visits o Paul Mitchell (Chair): 25 August 2020 o Stephen Gow: 16 August 2017 o George Cecato: 7 September 2020 • Applicant Briefing:14 September 2020 o Panel members: Paul Mitchell (Chair), Penny Holloway, Stephen Gow, Tegan Swan and George Cecato o Council assessment staff: Courtney Walsh, Gilbert Blackburn, Tim Smith

		o Applicant representatives: Steve Gooley, Mick Carah, Karen Hickey and Greg Benson Note: Applicant briefing was requested to provide the Panel with clarification and to respond to issues • Final briefing to discuss council's recommendation**:** 14 September 2020 o Panel members: Paul Mitchell (Chair), Penny Holloway, Stephen Gow, Tegan Swan and George Cecato o Council assessment staff: Courtney Walsh, Gilbert Blackburn, Tim Smith
9	**COUNCIL RECOMMENDATION**	Approval
10	**DRAFT CONDITIONS**	Attached to the council assessment report