

**DETERMINATION AND STATEMENT OF REASONS**  
NORTHERN REGIONAL PLANNING PANEL

<b>DATE OF DETERMINATION</b>	23 June 2021
<b>PANEL MEMBERS</b>	Paul Mitchell (Chair), Penny Holloway, Stephen Gow, Joe Vescio and David Brown
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	None

Public meeting held by teleconference on 23 June 2021, opened at 10:05am and closed at 11:30am.

**MATTER DETERMINED**

PPSNTH-64 – Byron – 10.2020.474.1 at 103 Paterson St, Byron Bay and 78 Shelley Drive, Byron Bay – multi-dwelling 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.

**Development application**

The panel determined to refuse the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

**REASONS FOR THE DECISION**

The panel determined to refuse the application for the following reasons:

- The owner's consent needed for proposed works on SP 47184 has not been obtained.
- The grade of the proposed driveway exceeds the specified accessibility standards in AS1428, as referenced in Chapter B13 of the Byron DCP 2014, between chainages 50-56.
- The proposed parking spaces for units H3, T3, T4 and T5 do not meet the standards specified for adaptable housing in AS 4299 and AS 2890, as referenced in Chapters B4 and B13 of the Byron DCP 2014.
- Post development runoff velocities and volumes will be higher than pre-development ones meaning relevant guidelines in Chapter B3 of the Byron DCP 2014 would not be complied with.
- The height of unit H4 exceeds the building height standard in the Byron LEP 2014.

The panel notes that many other problematic issues were identified in the Council's assessment report some of which could justify refusal. All the identified issues would need to be addressed in any revised application.

The panel also notes that in certain key respects the submitted plans were inconsistent or of poor quality.

The applicant requested that the panel defer its determination to allow the applicant to submit additional and amended information to address unresolved issues. The panel declined to grant a deferral believing that more than sufficient time has been provided to address the issues in question.


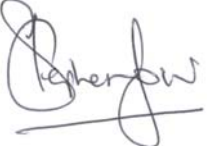



**CONDITIONS**

Not applicable.

## CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel considered written submissions made during public exhibition. The panel notes that issues of concern included:

- Owner's consent not granted for drainage works on private property;
- No easement for drainage works, flooding and stormwater;
- Fill will remove flood storage capacity; obstruction/reduction of the natural flow of stormwater;
- Future flood damage;
- Overdevelopment, inappropriate scale in location, traffic and parking inadequacies;
- Noise from people using proposed dwellings and pools/pool pumps;
- Use of the development for holiday letting; use of public land;
- Biodiversity, loss of mature trees; sustainability, energy, water; access and mobility; lack of common property;
- Insufficient boundary setbacks;
- Overlooking;
- Inadequate landscaping;
- Poor character and amenity;
- Adverse cumulative impacts;
- Dangerous access, risks to pedestrian safety;
- Non-compliance with legislation and other instruments.

PANEL MEMBERS	
 Paul Mitchell OAM (Chair)	 Stephen Gow
 Penny Holloway	 David Brown
 Joe Vescio	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSNTH-64 – Byron – 10.2020.474.1
2	PROPOSED DEVELOPMENT	Multi dwelling housing consisting for fourteen (14) townhouses, six (6) swimming pools, removal of sixteen (16) trees, demolition of existing dwelling, associated earthworks, upgrade to drainage channels and compensatory planting
3	STREET ADDRESS	103 Paterson St, Byron Bay and 78 Shelley Drive, Byron Bay
4	APPLICANT/OWNER	Planit Consulting
5	TYPE OF REGIONAL DEVELOPMENT	Council related development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>State Environmental Planning Policy No 55 – Remediation of Land</li> <li>State Environmental Planning Policy (Building and Sustainability Index: BASIX) 2004</li> <li>State Environmental Planning Policy (Infrastructure) 2009</li> <li>State Environmental Planning Policy (State and Regional Development) 2011</li> <li>Byron Local Environmental Plan 2014</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Byron Development Control Plan 2014</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: <ul style="list-style-type: none"> <li>Clause 49: owners consent</li> <li>Clause 92: demolition</li> </ul> </li> <li>Coastal zone management plan: Nil</li> <li>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>The suitability of the site for the development</li> <li>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Council assessment report: 16 June 2021</li> <li>Written submissions during public exhibition: 69</li> <li>Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>Council assessment officer – Patricia Docherty and Renan Solatan</li> <li>On behalf of the applicant – Luke Blandford</li> </ul> </li> <li>Total number of unique submissions received by way of objection: 41</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Site inspection: 15 June 2021 <ul style="list-style-type: none"> <li><u>Panel members</u>: Paul Mitchell (Chair), Joe Vescio and David Brown</li> <li><u>Council assessment staff</u>: Patricia Docherty and Gene Mason</li> </ul> </li> <li>Final briefing to discuss council's recommendation: 23 June 2021 <ul style="list-style-type: none"> <li><u>Panel members</u>: Paul Mitchell (Chair), Penny Holloway, Stephen Gow, Joe Vescio and David Brown</li> <li><u>Council assessment staff</u>: Patricia Docherty, Chris Larkin, Renan Solatan and Gene Mason</li> <li><u>Department</u>: Amanda Moylan and Lisa Foley</li> </ul> </li> </ul>

9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Not provided