

<b>DATE OF DETERMINATION</b>	Thursday, 25 July 2019
<b>PANEL MEMBERS</b>	Garry West (Chair), Stephen Gow and John Griffin
<b>APOLOGIES</b>	Pam Westing, David Wright and Nathan Willis
<b>DECLARATIONS OF INTEREST</b>	None

Public meeting held at Ballina Surf Club on 25 July 2019, opened at 10.00am and closed at 10.56am.

#### **MATTER DETERMINED**

2019NTH005 – Ballina Shire Council – 2018/756 at 62 Horizon Drive, West Ballina – Multi Purpose Hall at Emmanuel Anglican College (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.

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

The decision was unanimous.

#### **REASONS FOR THE DECISION**

Clause 4.6 variations and reasons:

- The Panel has considered the applicant's request to vary the development standard contained in Ballina Local Environment Plan 2012 Clause 4.3 relating to height of buildings and is satisfied that the request has adequately addressed the matters to be demonstrated by Clause 4.6 (3). The Panel considers compliance with the standard would be unreasonable and unnecessary in the circumstances of this case as the variation remains consistent with the underlying intent of the standard and the objectives of the zone.
- The proposal includes two indoor sports courts requiring a height variation only the portion located above the playing courts;
- The building is located on the college campus in a position well removed from residential activities and no dwellings or public recreation areas will be overshadowed or overlooked by the building;
- The portions of the building exceeding the nominated height restrictions are set within the central portion of the structure.

#### **Reasons for Approval:**

- The site to be developed is generally in accordance with a masterplan prepared in 2002 as amended;
- Council is satisfied that the land does not contain potential koala habitat and that the site has no history of being used for a purpose to cause contamination and is deemed suitable for the proposed use;
- The proposed development could not be considered as complying development under the SEPP (Educational Establishments and Child Care Facilities) 2017 as the site is identified as containing Class 2 Acid Sulfate Soils under the Ballina LEP 2012 and therefore was referred to the Northern Regional Planning Panel for determination;
- A draft Acid Sulfate Soils Management Plan has been prepared and deemed satisfactory by Council;

- The proposed development falls within the broader definition of an 'educational establishment' and is permissible in the R2 zone with consent;
- Additional parking proposed will provide the site a total of 161 parking spaces which is in excess of both the school masterplan and the Ballina DCP 2012 requirements;
- The proposed acoustic treatment together with the adopted conditions will mitigate onsite activity noise emissions. Additionally, a condition has been adopted, that in the event of a complaint of nuisance be justified, an acoustic assessment must be conducted and further mitigation measures be adopted if deemed necessary.

## CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report with the following amendments.


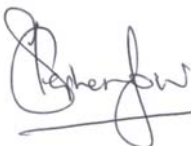

- Condition 1 was amended to update the Elevations 1 & 2 and Sections Plans to Revision F dated 10 July 2019 to properly demonstrate that the RL for the development is based on ground not fill level;
- Condition 27 was amended to require the Construction Management Plan to address dilapidation survey measures;
- Condition 101 was amended to delete the last line of the first bullet point and insert a new bullet point "For band performances, awards and concerts, events are to be limited to 12 per annum, and are to only take place within the hours of 7am and 9pm on each occasion";
- The penultimate bullet point in condition 101 be corrected to correct a spelling error to "well";
- Condition 106 was amended to add the words "as such use has not been assessed as part of this development application" to provide clarity why the Dance Studio is not to be made available for separate use outside school hours.

## 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:

- Noise impacts
- Potential for devaluation of residents' homes
- Ongoing construction works
- Traffic and parking concerns
- Lack of detail regarding the total capacity of proposed multipurpose hall or how many parking spaces are to be provided
- How pick up and drop off of pupils is to be managed

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report and that no new issues requiring assessment were raised during the public meeting.

PANEL MEMBERS	
 Garry West (Chair)	 Stephen Gow
 John Griffin	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2019NTH005 – Ballina Shire Council – 2018/756
2	PROPOSED DEVELOPMENT	Construction of a Multi-Purpose Hall at Emmanuel Anglican College, comprising two indoor sports courts, associated gymnasium and amenities, a stage and retractable seating. The proposed building is to be located on the corner of River Street and Horizon Drive. It has a maximum overall building height of RL 14.8m AHD. The proposed multi-purpose hall is to be used during and outside school hours, 7 days a week. The development also involves associated earthworks, infrastructure works, car parking and vegetation management works
3	STREET ADDRESS	62 Horizon Drive, West Ballina
4	APPLICANT/OWNER	Newton Denny Chapelle/Emmanuel Anglican College Council
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>○ Ballina Local Environmental Plan (BLEP) 2012;</li> <li>○ State Environmental Planning Policy No. 44 – Koala Habitat Protection</li> <li>○ State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>○ State Environmental Planning Policy (Coastal Management) 2018</li> <li>○ State Environmental Planning Policy (Infrastructure) 2007</li> <li>○ State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Ballina Development Control Plan (BDCP) 2012</li> </ul> </li> <li>• Planning agreements: Nil</li> <li>• Provisions of the Environmental Planning and Assessment Regulation 2000: Nil</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 Environmental Planning and Assessment Act 1979 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: 10 July 2019</li> <li>• Written Request to Vary Development Standard (Building Height) dated 5 December 2018</li> <li>• Written submissions during public exhibition: 5</li> <li>• Oral submissions at the public meeting: <ul style="list-style-type: none"> <li>○ In support – NIL</li> <li>○ In objection – Lesley Cassel, Candy Tselepy and Val King.</li> <li>○ Council assessment officer - Georgia Lee, Andrew Smith</li> <li>○ On behalf of the applicant – Rob Tobias, Principal of Emmanuel College and Damian Chapelle, Newton Denny Chapelle</li> </ul> </li> </ul>

<b>8</b>	<b>MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL</b>	<ul style="list-style-type: none"> <li>Site inspection and briefing 25 July 2019, 9.00am. Attendees: <ul style="list-style-type: none"> <li><u>Panel members</u>: Garry West (Chair), Stephen Gow and John Griffin</li> <li><u>Council assessment staff</u>: Georgia Lee, Andrew Smith and Patrick Knight</li> </ul> </li> </ul>
<b>9</b>	<b>COUNCIL RECOMMENDATION</b>	<b>Approval</b>
<b>10</b>	<b>DRAFT CONDITIONS</b>	Attached to the Council assessment report (and amended)