

NORTHERN JOINT REGIONAL PLANNING PANEL

STATEMENT OF REASONS

for decision under the *Environmental Planning and Assessment Act 1979 (NSW)*

The Northern Joint Regional Planning Panel provides the following Statement of Reasons for its decision under section 80 of the *Environmental Planning and Assessment Act 1979 (NSW)* (the Act) to:

Grant consent to the development application subject to conditions

for:

Construction of a Two Storey Educational Research and Teaching Building on land within the University of New England Campus; 60 Madgwick Drive, Armidale 2350 (DA-53-2014) (2014NTH008)

made by:

University of New England C/- Urbis

type of regional development:

Crown Development over \$5 million

A. Background

1. JRPP meeting

Northern Joint Regional Planning Panel meeting held :

Electronically on 27 May 2014.

Panel Members present:

Garry West

Bruce Clarke

John Griffin

Paul McFarland

Peter O'Donohue

Council staff in attendance:

None

Apologies:

None

Declarations of Interest:

Cr Peter O'Donohue noted the following "I have familiarised myself with the relevant Code of Conduct and do not believe that a 'reasonable person' would construe my employment at UNE as a conflict of interest when determining this DA. My position is as a senior technical officer with no input into planning, expansion or financial matters; I am a permanent employee in a section of UNE that has no connection with the proposed DA; the outcome of the DA, whether adverse or positive, would not affect my employment at UNE; and I believe I will be able to assess the determination wholly on its merits."

Paul McFarland noted the following "I am a lecturer in Urban & Regional Planning at the University of New England, where I have been employed since June 2000. In my role I have no dealings with any part of the process involved with making decisions relating to grant funding, applications for the construction of, or developments applications relating to University of New England facilities. I believe I do not have a pecuniary or non-pecuniary interest as defined by the Code of Conduct. My employment at the University of New England has no relationship to the application before the panel; nor does the university exert and direct or indirect influence over my professionalism in consideration of an application. Academic freedom allows me to perform this function and form opinions relative to my area of expertise without any fear of disfavour, demerit, or other adverse response from the University should I form an opinion or suggest a change different to the view of the University."

2. JRPP as consent authority

Pursuant to s 23G(1) of the Act, the Northern Joint Planning Panel (the Panel), which covers the Armidale Dumaresq Council's area, was constituted by the Minister.

The functions of the Panel include any of a council's functions as a consent authority as are conferred upon it by an environmental planning instrument [s 23G(2)(a) of the Act], which in this case is the *State Environment Planning Policy (State and Regional Development) 2011*.

Schedule 4A of the Act sets out development for which joint regional planning panels may be authorised to exercise consent authority functions of councils.

3. Procedural background

The Chair determined that this matter was suitable for electronic determination, as there had been no submissions made to Council in relation to this matter, the Council and the applicant, a crown authority, had agreed on the conditions of consent and the Council and the applicant agreed to electronic determination. The assessment report and conditions of consent were distributed to panel members electronically on 27 May 2014 and the panel communicated electronically to reach a consensus.

B. Evidence or other material on which findings are based

In making the decision, the Panel considered the following:

- SEPP 44 Koala Habitat Protection,
- SEPP 55 Remediation of Land,

- SEPP (Infrastructure) 2007,
- SEPP (State and Regional Development) 2011,
- Armidale Dumaresq Local Environmental Plan 2012
- Armidale Dumaresq Development Control Plan 2012

No submissions were received on the proposal.

In making the decision, the Panel also considered the following material:

1. Council's Assessment Report on the application dated 20 May 2014.
2. Statement of Environmental Effects, Urbis, April 2014.

C1. Findings on material questions of fact by the majority

Set out below in Section C1 are the findings of the majority of the Panel (being Garry West, John Griffin, Bruce Clarke, Paul McFarland and Peter O'Dohonue) each of whom voted in favour of granting consent.

The Panel has carefully considered all of the material referred to in Section B above.

(a) Environmental planning instruments. The Panel has considered each of the environmental planning instruments referred to in Section B above.

The Panel agrees with and adopts the analysis in Council's Assessment Report in relation to each of the environmental planning instruments referred to in Section B above.

(b) Development control plan. The Panel has considered the Armidale Dumaresq Development Control Plan 2012 referred to in Section B above.

The Panel agrees with and adopts the analysis in Council's Assessment Report in relation to the Development Control Plan.

(c) Likely environmental impacts on the natural environment. In relation to the likely environmental impacts of the development on the natural environment, the Panel agrees with and adopt the analysis in Council's Assessment Report.

(d) Likely environmental impacts of the development on the built environment. In relation to the likely environmental impacts of the development on the built environment, the Panel agrees with and adopt the analysis in Council's Assessment Report.

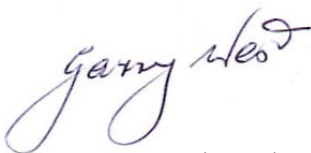
(e) Likely social and economic impacts. In relation to the likely social and economic impacts of the development in the locality, the Panel agrees with and adopt the analysis in Council's Assessment Report.

(f) Suitability of site. Based on a consideration of all of the material set out in Section B above and given the Panel's findings in this Section C, the Panel's finding is that the site is suitable for the proposed development.

(g) Public Interest. Based on a consideration of all of the material set out in Section B above and given the Panel's findings in this Section C, the Panel's finding is that granting consent to the development application is in the public interest.

D1. Why the decision of the majority was made

- In light of the Panel's findings in Section C1 above, the majority of the Panel decided to grant consent to the development application, subject to the conditions recommended by Council in its Assessment Report and agreed to by the Applicant.
- The development has been designed to minimise its environmental footprint through the incorporation of ESD strategies and initiatives.
- The development represents a significant investment in educational facilities at the campus and contributes to the University's ability to attract and retain students and staff.
- The development is located well within the University campus and will not impact on any adjoining properties, and
- The development will generate significant social and economic benefits.



Garry West (chair)



John Griffin



Bruce Clarke



Peter O'Donohue



Paul McFarland

Appendix A

PRESCRIBED CONDITIONS

For the purposes of section 80A (11) of the Act, the following conditions are prescribed condition of development consent:

Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989

- (1) For the purposes of section 80A (11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:
 - (a) that the work must be carried out in accordance with the requirements of the Building Code of Australia,
- (2) This clause does not apply:
 - (a) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or
- (3) In this clause, a reference to the *Building Code of Australia* is a reference to that Code as in force on the date the application is made for the relevant:
 - (a) development consent, in the case of a temporary structure that is an entertainment venue, or
 - (b) construction certificate, in every other case.

Note. There are no relevant provisions in the *Building Code of Australia* in respect of temporary structures that are not entertainment venues.

GENERAL CONDITIONS

1. To ensure this development is consistent with Council's consent, the development must take place in accordance with the approved plans (bearing the Armidale Dumaresq Council approval stamp); and all other documents submitted with the application, and subject to the consent conditions in this notice. In the event of any inconsistency between the approved plans and the conditions of this consent, the conditions shall prevail.

The approved plans are attached to this consent notice and are listed below:

Plan Drawer	Plan Numbers / Revision	Date
francis-jones morehen thorp	FJMT-SK-1030 to FJMT-SK-1037 inclusive	31/3/2014

ADVISING: Further consent may be required for any change, enlargement or intensification of the premises or land use, including the display / erection of any new structure such as signage, partition walls or building fit-out (unless the

proposed work is exempt from the need for consent). Please check with Council before commencement.

2. All Engineering works to be designed by a competent person and carried out in accordance with Council's Engineering Code, unless otherwise indicated in this consent, to ensure that these works are of a sustainable and safe standard.
3. Existing trees on the site are to be retained and protected from damage during work on the site (unless identified for removal on the approved FJMT architectural drawings), to maintain the visual amenity of the locality and no buildings constructed or utility service mains installed within 3 metres of the trunks of these trees, so as not to prejudice their future retention.

Any approved tree removal shall be carried out by an appropriately qualified person (e.g. tree surgeon) to avoid any risk to life or damage to property. This person shall have adequate public liability insurance cover.

CONDITIONS REQUIRING ACTION BEFORE CONSTRUCTION WORKS COMMENCE

4. A Structural Engineer is required to design the footings for the building and to confirm that the site has been assessed for possible spring activity and slope instability prior to works commencing on the site.

Note: Should spring activity or slope instability require additional design considerations by the Structural Engineer, a management plan is to be prepared by an appropriately qualified person. The management plan shall take into account the hazard categories identified in the Council's Development Control Plan 2012 Chapter 2.6; provide strategy and implementation procedures to ensure the stability of all structures associated with the development (such as roads, utilities, house foundations, basements, landscape terracing, in-ground pools and the like); and minimise risk during the building phase.

5. A visual surface inspection of the development site is to be undertaken on completion of site clearance works and a site clearance report is to be obtained from a suitably qualified consultant prior to works commencing, confirming that the site is clear of any hazardous materials and is appropriate for the proposed use.
6. The design and construction of food premises must:
 - be appropriate for the activities for which the premises are used;
 - provide adequate space for the activities to be conducted on the food premises and/or the fixtures, fittings and equipment used for those activities;
 - permit the food premises to be effectively cleaned and sanitised; and
 - exclude dirt, dust, fumes, smoke and other contaminants; and
 - not permit the entry of pests, and not permit any harbourage for pests,in accordance with the Australia and New Zealand Food Safety Authority *Food Safety Standards* and to ensure the public health and safety of patrons and staff. A copy of the Standards can be downloaded from the ANZFA website <http://www.foodstandards.gov.au>
7. The preparation of an Erosion and Sediment Control Plan (ESCP) and accompanying specifications for the construction phase of the works, prepared by a suitably qualified/experienced person and based on the Landcom manual *"Soils and Construction, Managing Urban Stormwater, Vol 1 4th Edition, March 2004"*, shall be completed prior to works commencing on the site. The ESCP controls shall be implemented and inspected by a suitably qualified/experienced person prior to the commencement of any site works and maintained for the life of the construction period and until revegetation measures have taken hold. The ESCP shall include, but not be limited to:
 - Provision for the diversion of runoff around disturbed areas;
 - Location and type of proposed erosion and sediment control measures;
 - Location of and proposed means of stabilisation of site access;
 - Approximate location of site sheds and stockpiles;
 - Proposed staging of construction and ESCP measures;
 - Clearance of sediment traps on a regular basis and after major storms;
 - Proposed site rehabilitation measures, including seeding of all bare un-grassed areas and turfing where erosion or scouring is likely to occur;
 - Standard construction drawings for proposed erosion and sediment control measures.

ADVISING: Failure to take effective action may render the developer liable to prosecution under the NSW Protection of the Environment Operations Act.

8. Parking areas and driveways proposed in connection with the development of the Agricultural Education building (as shown on the Francis-Jones Morehen Thorp architectural plans) are to be provided with an all-weather, nuisance-free surface for pedestrians and vehicles. The surface shall be provided with effective edge support / drainage control and landscaped areas adjacent to kerbing to be self-draining to the kerb. Proposed turning area adjacent to the loading/unloading area on the north western side of the building is to be designed to allow turning within the site for intended largest service vehicle.

Car parking facilities, including all internal parking and manoeuvring areas, are to be designed and constructed in accordance with Australian Standards AS/NZS 2890.1 (current edition): Off-street car parking, AS/NZS 2890.2 (current edition): Off-street commercial vehicle facilities and AS/NZS 2890.6 (current edition): Off-street parking for people with disabilities, and Council's Development Control Plan 2012. A detailed design is to be prepared prior to works commencing. All works are to be completed prior to occupation/use of the building.

9. Protection of the development by provision of underground drainage pipelines to cater for a stormwater flood frequency of 20% Annual Exceedence Probability (AEP) and fail-safe aboveground floodways to cater as a minimum for a flooding frequency of 1% AEP, to connect to the existing stormwater infrastructure on site. Capacity of existing stormwater pipe needs to be assessed and if required upgraded or detention system installed to restrict stormwater flow to predevelopment stage. Detailed designs are to be prepared prior to works commencing. All works are to be completed prior to the occupation/use of the building.

ADVISING: The proposed green roof shall have high quality water proofing and root repellent, a drainage system, filter cloth, a lightweight growing medium and plants suitable for the local climate.

10. Prior to works commencing a detailed Construction Management Plan is to be prepared for the site, to ensure that work is undertaken safely and to minimise nuisance to the surrounding area during all construction/work on site. This Plan shall include, as a minimum, provision for:

- Off-street parking for employees, contractors, sub-contractors and visitors to the site.
- Public parking during construction.
- Site access for construction vehicles and equipment.
- Storage and removal strategies for construction wastes.
- Construction Traffic Management Plan.
- Provision of sanitary amenities and ablution facilities for employees.
- Fire precautions during construction.
- Dust suppression.
- Control of noise arising from the works in accordance with the requirements of the Protection of the Environment Operations Act 1997 and guidelines contained in the New South Wales Environment Protection Authority Environmental Noise Control Manual.
- Fencing and security details, including site hoardings to be provided,

safeguarding both contractors and the public while works are being carried out on any public footpath areas. Contractor should endeavour to minimise disturbance to pedestrian / vehicle traffic in the vicinity of the site.

- Public footpath being protected from any paint spillages or other damage while work is being carried out.
- Details of all construction-related signs.
- Careful management of construction activities to prevent any contaminant discharge from the site (including oils, fuels, paints or chemicals), particularly with respect to excess concrete or concrete truck washings.
- Location of all public utility facilities and methods of protecting them
- Method of support to any excavation adjacent to adjoining properties, or the road reserve.

11. For all construction work required on Council road reserves (eg. vehicular footpath crossings utilities and stormwater work, footpath paving, kerb and gutter etc.), the Applicant is to submit an Application to Council as the roads authority pursuant to s138 of the Roads Act 1993 and obtain approvals for all such proposed work. These Application(s) must be approved prior to works commencing on Council road reserves, to ensure that pedestrian and vehicular safety during construction has been addressed and that the work meets Council's relevant Engineering Code and other design standards for work in road reserves.

The proposal which will involve work/activity over public land, is to be protected by public liability insurance with a minimum cover of \$10 million, or such other amount as may be advised by Council.

12. Adequate consultation, with a minimum of 21 days' notice, must be undertaken with the Council as the local water supply, sewer and stormwater drainage authority in connection with all relevant public utility services to be affected by the development before works commence.

In relation to these services:

- All sewer and drainage works associated with the approval are to comply with the requirements of AS 3500 (current edition) and be completed only by a licensed plumber and drainer.
- Council's approval must be obtained by a detailed application under the Local Government Act 1993, for the discharge of any trade waste or chemical material into Council's sewerage system, to prevent any unauthorised use of the system.

DURING CONSTRUCTION WORKS

13. Non-slip materials complying with AS 3661 (current edition) Slip resistance of pedestrian surfaces - Guide to the reduction of slip hazards and AS 4586 (current edition) Slip resistance classification of new pedestrian surface materials, are to be used for new paving of public areas within the development, to ensure safe public use of these areas.
14. Any fill which is placed on the site shall be free of any contaminants and placed in accordance with the requirements of AS 3798 (current edition) *Guidelines on Earthworks for Commercial and Residential Developments*. A suitably qualified consultant shall:
 - identify the source of the fill and certify that it is free from contamination; and
 - classify the area within any building envelope on any such filled lot in accordance with the requirements of "Residential Slabs and Footings" AS 2870.1 (current edition).
15. Effective dust control measures to be maintained during construction to maintain public safety/amenity and construction activities are to be restricted solely to the subject site.

ADVISING: Failure to take effective action may render the developer liable to prosecution under the NSW Protection of the Environment Operations Act.

16. The hours of building work on the development site are to be restricted to between 7.00am and 6.00pm on Monday to Saturday and only non audible building works are permitted between 8.00am to 1.00pm on Sundays, to maintain the amenity of the locality.

Any proposed building work to be undertaken outside these hours or on Public Holidays must be the subject of prior written agreement from Council - consideration may be given to special circumstances and non-audible work if applicable.

ADVISING: Breaches of this condition may result in the issuing of a Penalty Infraction Notice or prosecution.

17. Excavations and backfilling must be executed safely and in accordance with appropriate professional standards and be properly guarded and protected to prevent them from being dangerous to life or property.

If the soil conditions require it, retaining walls associated with the erection of the building or other approved methods for preventing the movement of the soil must be provided, and adequate provision must be made for drainage.

Any proposed retaining wall is not to impede overland stormwater flows from adjoining properties. Provision is to be made within the site to redirect stormwater at ground level from the rear of the retaining wall to a legal point of discharge, to protect the site and adjoining property from the effects of flooding.

ADVISING: Should excavation identify any Aboriginal or European relics you will be required to cease work and follow the relevant procedures in the National Parks and Wildlife Act 1974 or the Heritage Act 1977. Further details are provided under the heading 'ADVICE' in this consent.

18. Toilet facilities are to be provided at, or in the vicinity of the work site, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be connected to an accredited sewage management facility approved by the council or some other sewage management facility approved by the council.
19. The uppermost layer of the soil profile (top soil) is to be retained on site, stockpiled and surrounded at its base with silt fencing to ensure that the topsoil is maintained in a satisfactory and reusable condition. Stockpiles are to be limited in height to 3 metres and located in a position not visually prominent from public places. Areas within the development not otherwise built on are to be left with not less than 100mm of topsoil with grass or other landscaping established, to provide an aesthetically pleasing development within the streetscape.
20. A hoarding or fence must be erected between the work site and any public place if the work is likely to cause traffic (pedestrian or vehicular) in a public place to be obstructed or otherwise inconvenienced. The erected hoarding is to comply with AS 4687 (current edition) - Temporary fencing and hoardings and be sufficient to prevent any substance from or in connection with the work falling into the public place. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place. The hoarding, fence or awning is to be removed once the work has been completed.
21. Roof and surface stormwater from paved and impervious areas is to be collected and directed to the existing stormwater infrastructure on site, to protect the site and adjoining property from effects of flooding. Relevant work to be carried out immediately after the roof and guttering is installed.
22. Lighting is to be provided to pedestrian ways, building entries, driveways and car parks in accordance with relevant Australian Standards to ensure a high level of safety and security for residents and visitors at night. Lighting is to be designed to ensure the amenity of adjoining properties is maintained.
23. The development must be carried out in accordance with *Managing Urban Stormwater: Soils & Construction* (4th edition, Landcom, 2004), commonly referred to as the "Blue Book" and as in force at the date of this consent; to maintain public and environmental safety and amenity, and prevent erosion and sedimentation.

ADVISING: Failure to take effective action may render the developer liable to prosecution under the NSW Protection of the Environment Operations Act.

BEFORE OCCUPATION / USE OF THE BUILDING

24. A written notice is to be provided to Council advising of the commenced use of the food premises prior to the occupation/use of the café (within the ground floor of the proposed building as shown on the FJMT architectural plans), in accordance with the Food Act 2003 and to ensure the business is placed on Council's register of food premises.
25. Construction of the food premises is to be completed in accordance with the approved design and inspected by Council's Environmental Health Officer prior to the occupation/use of the café, to ensure the public health and safety of patrons and staff.
26. A Fire Safety Certificate covering each of the essential fire and other safety measures must be provided to Council prior to the occupation of the building, to ensure the safety of the occupants in the case of an emergency. A copy of the certificate is to be given to the NSW Fire Brigades by e-mail to afss@fire.nsw.gov.au and an additional copy to be displayed in a prominent location within the building, all in accordance with clause 172 of the Environmental Planning and Assessment Regulation 2000.
27. Access/facilities for people with disabilities is to be provided in accordance with the Building Code of Australia before the occupation/use of the building, and maintained thereafter.

ADVISING: The applicants/property owner should note that the Commonwealth Disability Discrimination Act 1992 provides opportunity for public complaint potentially leading to legal action if access to premises by people with disabilities or their carers is precluded. The Australian Human Rights Commission has released Advisory Notes on current Premises Standards which are available from Council on request. The Commission can also provide further information on this issue (1300 369 711). In addition to human rights considerations, as a substantial proportion of the community suffer from mobility handicaps, provision of good access to premises is also good business practice.

28. The proposed development being landscaped to enhance its appearance and provide shade and environmental benefits prior to occupation/use of the building.

New tree planting to be a minimum of 3m horizontal distance from the line of buildings or underground services to reduce risk of future damage by limbs, roots, etc.

OPERATIONAL MATTERS

29. An annual fire safety statement shall be provided to Council at least once every 12 months as required under clause 177 of the Environmental Planning and Assessment Regulation 2000, to ensure that the required fire safety measures for the building are being properly maintained. A copy of the statement is to be given to the NSW Fire Brigades by e-mail to afss@fire.nsw.gov.au and an additional copy to be displayed in a prominent location within the building.
30. All loading and unloading being carried out on-site or in the loading bay, to provide for safe off-street loading and unloading of vehicles servicing the site

and prevent interference with the use of the public road by vehicles and pedestrians.

ADVICE

In the event that Aboriginal artefacts are identified on the site during development through earthworks or construction, the Applicant shall contact the National Parks and Wildlife Service (NPWS – part of the Office of Environment and Heritage) and cease work in the relevant location pending investigation and assessment of its heritage value by NPWS and the relevant local Aboriginal groups.

A 'Consent to Destroy' Application under section 90 of the National Parks and Wildlife Act 1974 must be submitted and issued by the Director-General of National Parks and Wildlife for any Aboriginal archaeological sites that are to be damaged or destroyed as a result of any development. The Applicant shall consult with the relevant local Aboriginal groups and to the satisfaction of the NPWS prior to any 'Consent to Destroy' Application being submitted.

For further information see the NPWS Code of Practice for Archaeological Investigations in NSW:
<http://www.environment.nsw.gov.au/licences/archinvestigations.htm>

In the event that any relics, being any deposit, artefact, object or material evidence that:

- (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
- (b) is of State or local heritage significance,

are identified on the site during development through earthworks or construction, the Applicant/developer shall notify the NSW Heritage Council as required under s.146 of the Heritage Act 1977, as well as the Armidale Dumaresq Council, of the find and await further advice before proceeding with the development.

OTHER APPROVALS/CONSENTS

Local Government Act 1993 - approvals granted under Section 78A(3) and (5) of the Environmental Planning and Assessment Act 1979 - Nil:

General terms of other approvals integrated as part of this consent:

- Bush fire safety authority under Section 100B of the Rural Fires Act 1997, issued by NSW Rural Fire Service on 5 May 2014 and subject to the following general terms of approval:
 1. The following conditions are based on the plan prepared by Francis-Jones Morehen Thorp, titled 'Agricultural Education Building - Site Plan', numbered FJMT-SK-1031 and dated 31 March 2014.

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

2. Electricity and gas services are to comply with sections 4.1.3 and 4.2.7 of 'Planning for Bush Fire Protection 2006'.

Evacuation and Emergency Management

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

3. An Emergency /Evacuation Plan is to be prepared consistent with the NSW Rural Fire Service document 'Guidelines for the Preparation of Emergency/Evacuation plan'.

Landscaping

4. Landscaping to the development is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.