

HUNTER AND CENTRAL COAST JOINT REGIONAL PLANNING PANEL

COUNCIL ASSESSMENT REPORT

Panel Reference	2017HCC060 DA
DA Number	87/2018/DA
LGA	MidCoast Council
Proposed Development	Alterations and additions to Old Bar Public School
Street Address	10 Smith Street Old Bar NSW 2430
Applicant/Owner	Conrad Gargett / NSW Department of Education
Date of DA lodgement	04-Sep-2017
Number of Submissions	nil
Recommendation	Approval
Regional Development Criteria (Schedule 4A of the EP&A Act)	Capital investment Value> \$5M – Crown Development
List of all relevant s79C(1)(a) matters	<ul style="list-style-type: none"> • NSW Rural Fires Act 1997 • SEPP 14 (Coastal Wetlands) • SEPP 26 (Littoral Rainforests) • SEPP 71 (Coastal Protection) • SEPP (Infrastructure) 2007 • SEPP 55 (Remediation of Land) • Draft State Environmental Planning Policy (Educational and Child Care Facilities) 2017 • Draft State Environmental Planning Policy (Coastal Management) 2016 • Draft State Environmental Planning Policy (Coastal Management) 2016 • NSW Coastal Policy 1997 • Greater Taree Local Environmental Plan 2010 • Greater Taree Development Control Plan 2010
List all documents submitted with this	<ul style="list-style-type: none"> • Amended Statement of Environmental Effects • Appendix A – Architectural Plans • Appendix B – Landscape Plans

report for the Panel's consideration	<ul style="list-style-type: none"> • Appendix C – Geotechnical Report • Appendix D – Engineering Plans • Appendix E – Amended Bushfire model • Appendix F – AHIMS Search • Appendix G – BCA Report • Appendix H – Site Survey Plan • Appendix I – Coastal Engineering Risk Management Plan • Appendix J – Clause 4.6 Variation • Appendix K – Traffic Impact Assessment • Letter to Council – withdrawal of Lot 274 from application • Aboriginal Heritage Checklist • Amended BFSA • Development Application • Estimated Value of Works
Report prepared by	Lisa Proctor – Consultant Town Planner
Report date	

Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report? **Yes**

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards **Yes**

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)? **No**

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? **Yes**

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

EXECUTIVE SUMMARY OF REPORT

Development application 87/2018/DA has been lodged with MidCoast Council seeking development consent for alterations and additions to Old Bar Public School. The development comprises the:

- removal of seven demountable buildings located on the southern side of the permanent school buildings;
- removal of the existing open sports court located in the southwest corner of the site adjacent to David Street; and
- construction of a permanent two-storey building containing seven classrooms and common learning area on both levels.

The application seeks a variation of 1.9m to the height limit applying to the site, in accordance with Clause 4.6 of Greater Taree Local Environmental Plan (GTLEP) 2010.

The proposal is referred to the Joint Regional Planning Panel for determination pursuant to Part 4 'regional development' of State Environmental Planning Policy (State and Regional Development) 2011 as the proposed development is listed within Schedule 4A of the EP&A Act, being Crown development that has a capital investment value of more than \$5 million. Due to the State Government's competitive tendering process, the cost of the proposed development has not been included in this report. The application is to be determined by the Hunter and Central Coast Joint Regional Planning Panel.

The development application was notified to potentially affected neighbours for a period of 18 days commencing 18 September 2017 and finishing 5 October 2017. No submissions were received.

SUMMARY OF RECOMMENDATION

Any development made by or on behalf of the Department of Education is characterised as a Crown development application as defined in Division 4.6 of the Environmental Planning and Assessment Act 1979. In response to any Crown development application the consent authority has no power to issue either a refusal or an approval subject to conditions of consent to which the Department of Education does not agree except with the approval of the Minister.

A copy of the draft conditions are included in Annexure A. The draft conditions were sent to the applicant on 1 February 2018 for review and comment. Council received a formal response to the conditions from the applicant stating:

"We confirm that The Department of Education has reviewed and given due consideration to the draft Consent Conditions and confirms the draft Consent Conditions are generally accepted, excluding Condition 12, by the Department of Education and can be forwarded by Council to the Joint Regional Planning Panel for assessment.

Draft Consent Condition 12 is contested by the Department of Education. It is requested that the Council forwards this letter to the Joint Regional Planning Panel, requesting that it amends this Condition to the effect that the Department of Education is providing sufficient community and social benefit to the Old Bar and surrounding community by expanding and upgrading the school, it should not be subject to Developer Contributions".

The letter referred to in the above paragraph is included at Attachment D. It is recommended that the application be approved subject to the conditions attached in Annexure A.

SUBJECT SITE AND LOCALITY

The subject site is located at 10 Smith Street, Old Bar, and comprises three lots with a total area of 1.75 ha. The site has frontage to Smith Street (north), David Street (west) and an area of Crown Reserve (Lot 274) to the south as shown in Figure 1 below. All essential services are available to the site.

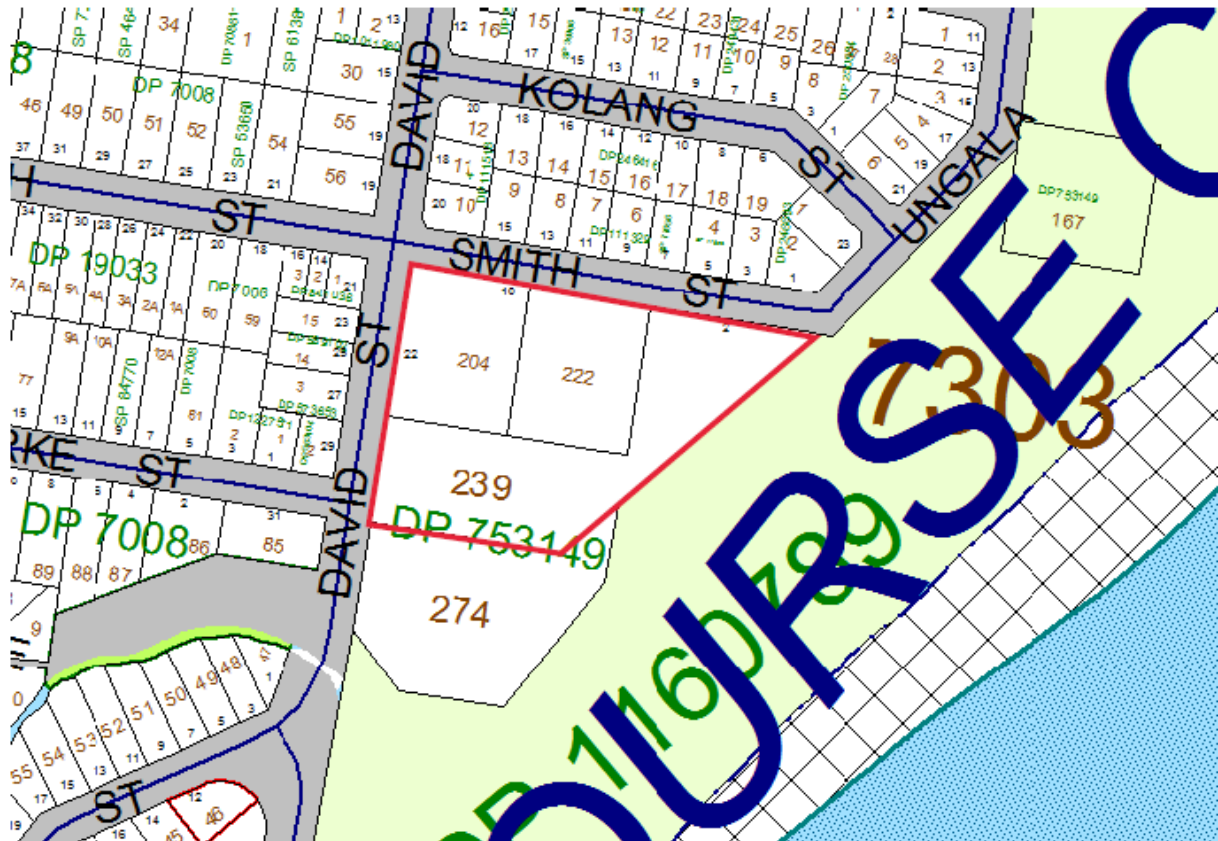


Figure 1: Location of Old Bar Public School. Source: MCC Exponare 2017.

Old Bar is a coastal town located at the mouth of the Manning River, approximately 16 kilometres east of Taree and around 315 kilometres north of Sydney. The locality of Old Bar is characterised by a mix of residential, recreational, tourist and commercial developments. As shown in the site context photo in Figure 2, development and the land surrounding the subject site, includes the following:

- North: low density residential development.
- East: an environmental conservation zone comprising Old Bar Park and the Pacific Ocean foreshore.
- South: an environmental conservation zone comprising Old Bar Park and the Pacific Ocean foreshore; and
- West: low density residential development.



Figure 2: Site Context. Source: MCC Exponare 2017.

The site is zoned R1 (General Residential) as shown in Figure 3. All works will be contained within the R1 zone on the western portion of Lot 239 as shown in Figure 4.

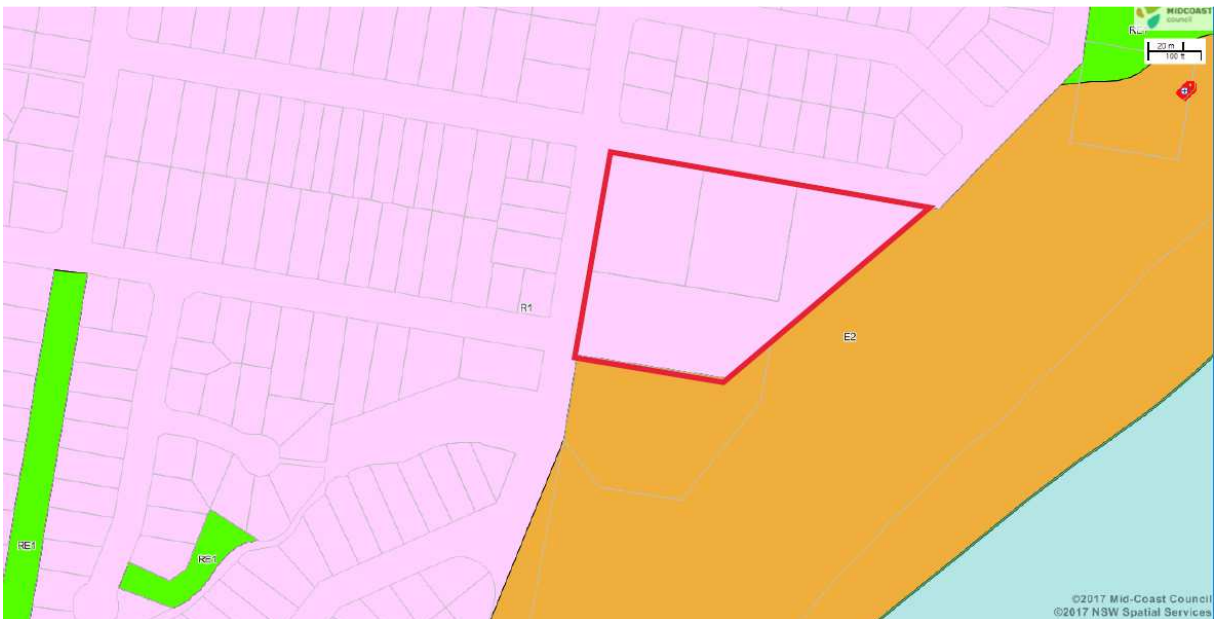


Figure 3: Zoning of Subject Site. Source: MCC Exponare 2017.

ATTACHMENTS

- A: Statement of Environmental Effects (amended)
- B: Bushfire Safety Authority (amended)
- C: Letter from Department of Education advising that Lot 274 is to be withdrawn
- D: Letter from Department of Education regarding the draft conditions of consent

BACKGROUND

Old Bar Public School currently caters for approximately 470 children and associated staff. The school buildings and associated car parking, open space/landscaping and facilities are located on lots 204, 222 and 239 DP 753149. The boundary of these allotments forms the fenced perimeter of the school. Lot 274 DP 753149 is located to the south of the fenced school boundary and contains a walking trail and littoral rainforest vegetation.

A development application was lodged with MidCoast Council on 4 September 2017 to remove the existing seven temporary buildings located on the eastern portion of Lot 239 and replace them with a permanent two-storey facility on the western portion of Lot 239. The development application was lodged over Lots 204, 222, 239 and 274 DP 753149. All of the Lots except for Lot 274 are in the ownership of the Department of Education (DoE). Lot 274 is in the ownership of the Department of Primary Industries (DPI) (Crown Lands) and no owner's consent for that Lot was included with the development application. Lot 274 was included in the development application as it was intended that the footpath on Lot 274 would provide the bushfire asset protection zone (APZ) for the proposed development. Council and the Department of Education were unsuccessful in their attempts to gain owner's consent from DPI Lands for the inclusion of Lot 274, therefore the Statement of Environmental Effects, Bushfire Assessment and Bushfire Safety Authority (BFSA) were amended to remove any consideration of Lot 274. The amended Statement of Environmental Effects, Bushfire Assessment and BFSA are included with this report. The DoE has advised that it will not be amending any of the other reports lodged with the original application, to remove reference to Lot 274.

The amended Statement of Environmental Effects (SEE) contains the following supporting plans and studies as appendices:

- a. Development plans
- b. Landscape plans
- c. Geotechnical assessment
- d. Stormwater concept plan
- e. Bushfire assessment and associated APZ ecological constraints assessment (amended)
- f. Results of AHIMS search
- g. Schematic Design Report
- h. Site Survey Plan
- i. Coastal Risk Assessment
- j. Clause 4.6 application to vary a development standard
- k. Traffic impact assessment

The amended SEE and appendices are contained in full at Attachment A.

PROPOSAL

The proposed development involves alterations and additions to Old Bar Public School and seeks development consent to replace 7 demountable buildings with a permanent two storey building containing 7 classrooms and common learning areas on both levels.

The development will not result in an increase in student or staff numbers, but will provide a high quality, architecturally designed permanent education facility to replace the seven temporary demountable buildings on the site. The new education facility will be constructed on the site of the current sports court (shown in the aerial photograph below).

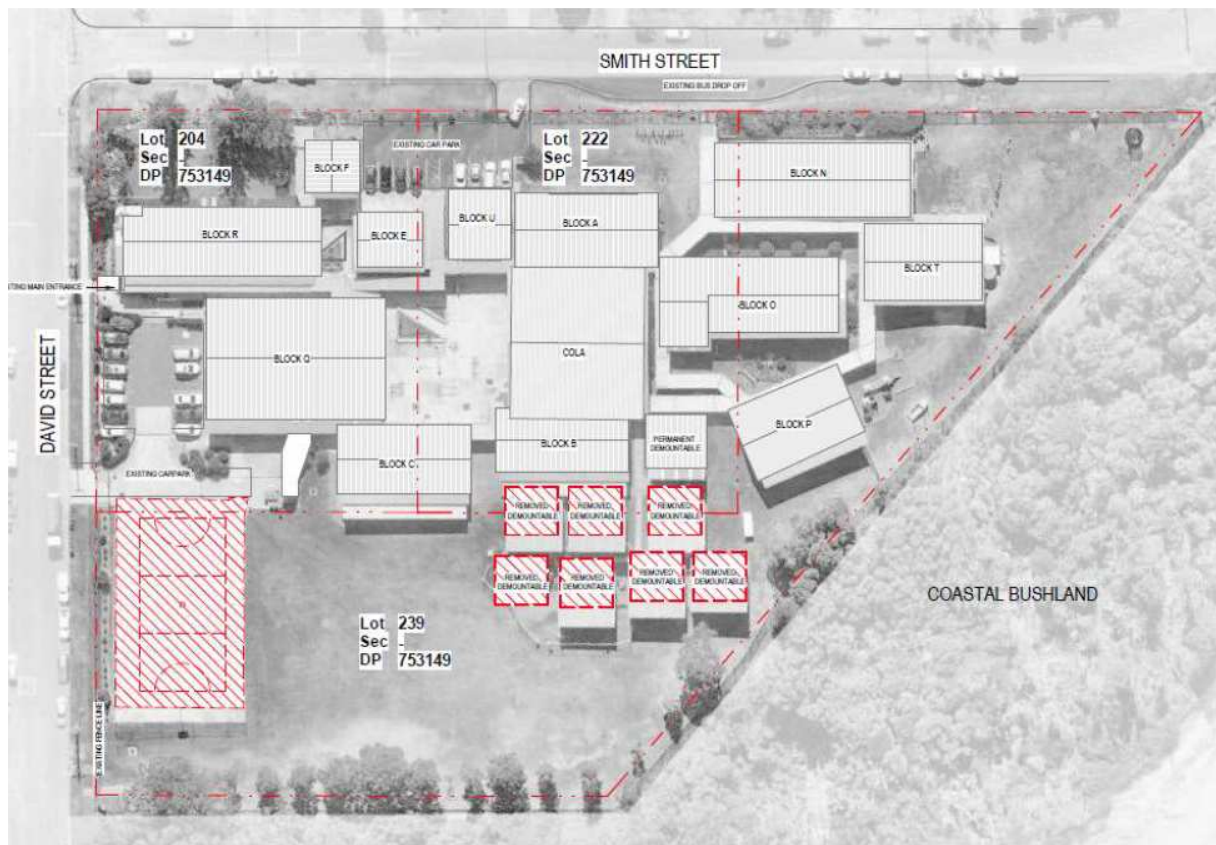


Figure 4: Location of proposed development within Lot 239.
Source: Barker Ryan Stewart 2017.

The new building will comprise:

Ground Floor:

- Three classrooms and open common area;
- Toilet facilities;
- Plant room; and
- Stair and lift access.

First Floor:

- Four classrooms and open common area;
- Toilet facility;
- Communications room;
- Cleaners store; and
- Stair and lift access.

The development plans are included in the SEE (Attachment A) at Appendix A.

PLANNING ASSESSMENT

SECTION 79C MATTERS FOR CONSIDERATION -

The following matters listed under Section 79C of the *Environmental Planning and Assessment Act, 1979*, are relevant in considering this application:

- a) ***The provisions of any environmental planning instrument; any proposed instrument that is or has been the subject of public consultation and which have***

been notified to the consent authority; any DCP; any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F; any matters prescribed by the regulations; any coastal zone management plan that apply to the development application on the subject land.

NSW Rural Fires Act 1997

In accordance with the *Rural Fires Act 1997*, the proposed development is a Special Fire Protection Purpose (SFPP) as it is a "school" and has therefore been issued with a Bush Fire Safety Authority (BFSA) from the NSW Rural Fire Service (RFS). The BFSA is included at Attachment B. The requirement for consent from the RFS means that the development is "integrated", and therefore the conditions in the BFSA have been included in the draft consent at Annexure A.

State Environmental Planning Policies (SEPPs)

State Environmental Planning Policy No 14 (Coastal Wetlands)

The site includes a SEPP 14 buffer area to the west, being 100m from mapped SEPP 14 wetland areas. The proposed alterations and additions to Old Bar Public School will remove demountable buildings from the western portion of the site and will not have any adverse impacts on the mapped coastal wetland or buffer areas. The development includes stormwater devices to ensure that runoff is not directed towards the wetland areas.

State Environmental Planning Policy No 26 (Littoral Rainforests)

The aim of this Policy is to provide a mechanism for the consideration of applications for development that is likely to harm littoral rainforest areas, with a view to the preservation of those areas in their natural state. The site adjoins an area of littoral rainforest and the school is located within the SEPP 26 buffer area. However, Clause 4 of the SEPP states the following:

(1) This Policy applies to:

- (a) land enclosed by the outer edge of the heavy black line on the series of maps held in the Department and marked "State Environmental Planning Policy No 26—Littoral Rainforests (Amendment No 2)", and*
- (b) land not so enclosed but within a distance of 100 metres from the outer edge of that heavy black line except residential land and land to which State Environmental Planning Policy No 14—Coastal Wetlands applies.*

The site is within 100m of the mapped area of littoral rainforest, however it is exempt from further consideration under the SEPP as it is residential land (currently zoned R1).

State Environmental Planning Policy No 71 (Coastal Protection)

SEPP 71 affects the site because the site is located within the "coastal zone" as defined in the Coastal Protection Act 1979. The aims of SEPP 71 are:

- (a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and*
- (b) to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and*

- (c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and*
- (d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and*
- (e) to ensure that the visual amenity of the coast is protected, and*
- (f) to protect and preserve beach environments and beach amenity, and*
- (g) to protect and preserve native coastal vegetation, and*
- (h) to protect and preserve the marine environment of New South Wales, and*
- (i) to protect and preserve rock platforms, and*
- (j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the Protection of the Environment Administration Act 1991), and*
- (k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and*
- (l) to encourage a strategic approach to coastal management.*

The proposed development is consistent with the aims of the SEPP. The development provides for the removal of seven temporary buildings that detract from the local amenity of the coastal zone and replaces them with an architecturally designed, ecologically sustainable building with a high level of functionality and amenity. The proposed development does not alter the existing foreshore access arrangements and has no likely negative impacts on the natural or built environments. The proposal is consistent with the provisions of Clause 8 of the SEPP, "Matters for Consideration" as detailed below:

Clause 8 Requirements	Comments
(a) the aims of this Policy set out in clause 2	The development is entirely consistent with the aims of the SEPP.
(b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved	The development does not change the existing foreshore access arrangements.
(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability	The development is located within an existing school and no opportunities are available to provide new public foreshore access.
(d) the suitability of development given its type, location and design and its relationship with the surrounding area	The development provides for the removal of seven temporary buildings that detract from the local amenity of the coastal zone and replaces them with an architecturally designed, ecologically sustainable building with a high level of functionality and amenity. Impacts on the surrounding area are likely to be positive.
(e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore	No overshadowing or loss of views are likely as a result of the development. No detrimental impacts are likely.
(f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities	The proposal will maintain the scenic qualities of the locality and the NSW coast. While the proposed development will not alter the current use of the site, it would increase the scenic qualities by removing seven temporary buildings of low amenity and replacing them with a single building with a high level of amenity.

(g) measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats	No specific measures are required as no impacts on threatened species are likely.
(h) measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation, and their habitats	No specific measures are required as no impacts on the marine environment are likely.
(i) existing wildlife corridors and the impact of development on these corridors	No specific measures are required as no impacts on wildlife corridors are likely.
(j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards	The Coastal Engineering Risk Management Plan (CERMP) lodged with the application and included at Appendix I to the SEE demonstrates that engineering solutions have been incorporated into the design of the new building to ensure that risks from coastal hazards are acceptable.
(k) measures to reduce the potential for conflict between land-based and water-based coastal activities	The development would not result in any conflict between land-based and water-based activities as the school is existing, therefore no specific measures are required.
(l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals	The school site is highly modified. No Aboriginal archaeological relics have been recorded on the site, therefore no specific measures are required.
(m) likely impacts of development on the water quality of coastal water bodies	Stormwater management devices have been included in the proposed development to ensure that the proposal does not result in a decrease in the quality of any coastal water body.
(n) the conservation and preservation of items of heritage, archaeological or historic significance	There are no known heritage, historic or archaeological items that would be affected by the proposal.
(o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities	n/a
(p) only in cases in which a development application in relation to proposed development is determined: (i) the cumulative impacts of the proposed development on the environment, and (ii) measures to ensure that water and energy usage by the proposed development is efficient.	There are no likely negative cumulative impacts associated with the development. The development proposes to replace seven temporary inefficient buildings with one building that provides a high level of water and energy efficiency.

State Environmental Planning Policy (Infrastructure) 2007

At the time of lodging the development application, the SEPP applied to the proposed development as the development is defined as an “educational establishment” under Part 3, Division 3 of the SEPP. On 1 October 2017, Part 3, Division 3 of the SEPP was repealed and the development controls relating to educational establishments were included within State Environmental Planning Policy (Educational and Child Care Facilities) 2017. Schedule 5 of the SEPP (Educational Establishments and Child Care Facilities) 2017 provides a savings provision whereby the SEPP does not apply to a development application made under Part 4 of the Act, but not finally determined before the commencement of the SEPP (Educational Establishments and Child Care Facilities) 2017.

The relevant clauses of SEPP (Infrastructure) 2007 are addressed below.

Division 3 Educational establishments

28 Development permitted with consent

(1) Development for the purpose of educational establishments may be carried out by any person with consent on land in a prescribed zone.

(1C) Development for a purpose specified in clause 31A (1) may be carried out by any person with consent on land on which there is an existing school or TAFE establishment.

(2) Development for any of the following purposes may be carried out by any person with consent on any of the following land:

(a) development for the purpose of educational establishments—on land on which there is an existing educational establishment,

The development is located in an R1 (General Residential) zone, which is a prescribed zone under the SEPP. The development is being undertaken on land on which there is an existing educational establishment.

29 Development permitted without consent

(1) Development for any of the following purposes may be carried out by or on behalf of a public authority without consent on land in a prescribed zone if the development is in connection with an existing educational establishment:

(a) construction, operation or maintenance, more than 5m from any property boundary, of:

(iii) a permanent classroom that is not more than one storey high to replace an existing portable classroom and that is used for substantially the same purpose as the portable classroom

The development contains two storeys; therefore, it can not be carried out without consent.

32 Determination of development applications

(2) Before determining a development application for development for the purposes of a school, the consent authority must take into consideration all relevant standards in the following State government publications (as in force on the commencement of this Policy):

(a) School Facilities Standards—Landscape Standard—Version 22 (March 2002),

(b) Schools Facilities Standards—Design Standard (Version 1/09/2006),

(c) Schools Facilities Standards—Specification Standard (Version 01/11/2008).

(3) If there is an inconsistency between a standard referred to in subclause (2) and a provision of a development control plan, the standard prevails to the extent of the inconsistency.

The NSW Educational Facilities Standards and Guidelines (EFSG) provides information to assist those responsible for the planning, design and construction of school facilities. The most recent versions of the Design and Specification Standards refer to the Industry Standard for specification in construction. A Landscape Design has been included at Appendix B to the SEE, which addresses the required landscape standards for educational facilities. A Schematic design report has been included at Appendix G to the SEE, which demonstrates compliance with the relevant design and specification standards.

State Environmental Planning Policy No 55 (Remediation of Land)

Lot 274 is noted as “potentially contaminated” on Council’s mapping system. This Lot was previously used as a nightsoil depot, but has been disused for many years and is now heavily vegetated. No works are proposed within Lot 274, with all works occurring on Lot 239. The geotechnical assessment at Appendix C of the SEE identified no soil contamination that would

affect the suitability of the site for the proposed development, therefore no further consideration is required under the SEPP.

Draft State Environmental Planning Policy (Educational and Child Care Facilities) 2017

At the time the development application was lodged with Council, the NSW government was proposing to introduce a new education-based State Environmental Planning Policy. The Draft SEPP (Education and Child Care Facilities) intended to streamline and simplify the planning system for education facilities in New South Wales. That instrument has now been made.

The reforms outlined in the SEPP allow schools to more readily implement improvements, upgrades and expansions. The proposed development complies with the objectives, standards and guidelines in the SEPP. Under the provisions of the SEPP, the proposed development would still require development consent.

Draft State Environmental Planning Policy (Coastal Management) 2016

The draft SEPP is proposing to replace SEPPs 14, 26 and 71 (addressed above) and includes accompanying mapping and provisions. The whole of the school site is located within the draft 'coastal use' area.

The coastal use area is land adjacent to coastal waters, estuaries, coastal lakes and coastal lagoons, where impacts of development on the use and enjoyment of the beaches, foreshores, dunes, estuaries, lakes and the ocean needs to be considered. The objectives for the coastal use area include:

- Having appropriate type, bulk, size and scale of development for the coast;
- Providing adequate public open space and associated public infrastructure; and
- Avoiding adverse impacts of development on cultural and built environment heritage.

The applicable provisions of the draft SEPP are addressed below.

SEPP Requirement	Comments
Div1 – Coastal Wetlands and Littoral Rainforests Area	
<i>12. Development on land in proximity to coastal wetlands or littoral rainforest land</i>	
<i>(1) Development consent must not be granted to development on land wholly or partly identified as "proximity area for coastal wetlands" or "proximity area for littoral rainforest" on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:</i>	
<i>(a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or</i>	No works are proposed in the littoral rainforest. No significant impact is likely.
<i>(b) the quantity and quality of surface and ground water flows to the adjacent coastal wetland or littoral rainforest if the development is on land within the catchment of the coastal wetland or littoral rainforest.</i>	The stormwater concept plan (Appendix D of the SEE show that the stormwater from the proposed new building will be drained to the existing stormwater management system along the David Street frontage. No stormwater is likely to enter Lot 274.
Div 4 – Coastal Use Area	
<i>15. Development on land within the coastal use area</i>	
<i>(1) Development consent must not be granted to development on land wholly or partly within the Coastal Use Area unless the consent authority:</i>	
<i>(a) is satisfied that the proposed development:</i>	
<i>(i) if near a foreshore, beach, headland or rock platform— maintains or, where practicable, improves existing, safe public access to and along the foreshore, beach, headland or rock platform,</i>	The site does not have frontage to any coastal foreshore as it is separated from the foreshore by a large tract of E2 zoned

	land and does not result in any loss of foreshore access.
<i>(ii) minimises overshadowing, wind funnelling and the loss of views from public places to foreshores</i>	The proposal does not impact on any public views to the foreshore, does not result in any overshadowing of the foreshore and is unlikely to result in wind funnelling to foreshore areas as it comprises the construction of a single building on a site that is already developed.
<i>(iii) will not adversely impact on the visual amenity and scenic qualities of the coast, including coastal headlands</i>	The proposal is likely to have a positive impact on the scenic amenity of the coast as it involves the replacement of seven temporary buildings of low visual amenity with one single building of high visual amenity.
<i>(iv) will not adversely impact on Aboriginal cultural heritage and places</i>	The site is already developed and highly modified. The AHIMS search (Appendix F of the SEE) undertaken for the application did not result in any items being identified within, or within close proximity to, the subject site.
<i>(v) will not adversely impact on use of the surf zone</i>	The development is not located within, or within close proximity to, the surf zone.
<i>(b) has taken into account the type and location of the proposed development, and the bulk, scale and size of the proposed development.</i>	Although the development is seeking a variation to the height standard applying to the site, it has been sensitively designed to minimise perceived bulk and scale. The replacement of seven temporary buildings of low visual amenity and functionality with one single building of high visual amenity and functionality is likely to have a positive impact.

Greater Taree Local Environmental Plan (GTLEP) 2010

The subject site is located within the R1 (General Residential) and E2 (Environmental Conservation) zones.

LEP Requirement	Summary of Requirement	Complies
Zone Objectives <i>Zone R1 General Residential</i> <i>1 Objectives of zone</i> <ul style="list-style-type: none">• To provide for the housing needs of the community.• To provide for a variety of housing types and densities.• To enable other land uses that provide facilities or services to meet the day to day needs of residents.		Yes. The development provides a school facility to meet the needs of the residents of Old Bar.
Permissible use		Yes. The development is permitted with consent in the R1 zone.

LEP Requirement	Summary of Requirement	Complies
<i>Educational establishment</i>		
4.3 –Height of buildings <i>A maximum height of 8.5m applies to the site.</i>		Does not comply. An application to vary the standard has been lodged with the development application and is included at Appendix J to the SEE.
4.4 –Floor Space Ratio <i>A maximum floor space ratio of 0.6:1 applies to the site.</i>		<i>Yes. The proposed development will result in a floor space ratio of 0.2:1.</i>
4.6 – Exceptions to Development Standards <i>The height of the proposed new building is 10.4m, which is 1.9m higher than the maximum height limit applying to the R1 zone on the subject site.</i>		Yes. The variation is considered to be within the public interest and strict compliance with the standard is considered to be unnecessary in the circumstances of the case. This is discussed in detail below.
5.5 – Development within the coastal zone <i>The provisions of this Clause are largely addressed in SEPP 71 (Coastal Protection) and the Draft SEPP (Coastal Management) 2017.</i>		Yes. The proposed development is not contrary to the objectives of this clause, and the proposed development will not be significantly affected by coastal hazards, have a significant impact on coastal hazards or increase the risk of coastal hazards to any other land. The development implements the principles in the NSW Coastal Policy and is unlikely to have an adverse impact on biodiversity and ecosystems.
5.12 - Infrastructure development and use of existing buildings of the Crown <i>The LEP does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development, by or on behalf of a public authority, that is permitted to be carried out with or without development consent, or that is exempt development, under State Environmental Planning Policy (Infrastructure) 2007.</i>		The Department of Education is a public authority. Council has no power to issue a refusal to the proposed development. Therefore, it is recommended that the application be approved subject to the conditions attached in Annexure A, to which the Department of Education has agreed.

Clause 4.6 Exception to Development Standards

Clause 4.6 of GTLEP 2010 provides a degree of flexibility in the application of certain development standards where it can be demonstrated that compliance with the standard is unreasonable or unnecessary in the circumstances of the proposed development. Clause 4.6 also requires the concurrence of the Secretary to be obtained prior to the granting of consent for development that contravenes a development standard. However, in accordance with Clause 64 of the *Environmental Planning & Assessment Regulation* and *Planning Circular PS 08-003*, Council has assumed concurrence with respect to applications to vary the height or floor ratio standards set by the LEP or any other environmental planning instrument. The application to vary the standard is contained in full in Appendix J of the SEE at Attachment A, and summarised below.

Height of Buildings: The Height of Buildings map (extract below) shows that the maximum building height control applying to the land is 8.5m metres, with adjacent areas to the south and east having no building height controls. Old Bar has a building height control of 8.5m consistently applied across the residential area.



Figure 5: Height of Building Map showing 8.5m maximum height limit applying to part of the subject site. Source: MCC Exponare 2017.

The proposed building has a maximum height of 10.4m, which is 1.9m (22.4%) higher than the height standard of 8.5m applying to the site. To mitigate any perceived impact on bulk and scale, the building has been designed to slope away from the street frontage so that the building height at the street frontage is 8.4m. The shadow diagrams lodged with the application demonstrate there will be no overshadowing of any private spaces, and overshadowing of public spaces is limited to the footpath and road reserve along David Street during the morning only. The playground is only overshadowed outside of school playtime hours.

Strict compliance with the development standard is considered to be unreasonable and unnecessary in the circumstances of the application, as the proposed height is required in order for the building to maximise its functionality and achieve a high level of amenity. There is unlikely to be any adverse impact as a result of the proposed variation to the height standard. It is likely that the building's design will add to the streetscape and amenity of both the school and surrounding residential area.

DEVELOPMENT CONTROL PLAN 2010

Having regard for the matters for consideration detailed in Section 79C(1) of the Environmental Planning & Assessment Act 1979, the following is a summary of the evaluation of the proposal pursuant to the relevant provisions of the Greater Taree Development Control Plan 2010.

DCP Requirement	Summary of Requirement	Complies
A3 Notification and Public Participation	<i>The proposed development has been notified to potentially affected neighbours in accordance with this part of the DCP.</i>	n/a
D1 Coastline Management	D1.3 – Old Bar to Manning Point	
	<u>Objectives</u> <ul style="list-style-type: none"> <i>To ensure that development is designed and located in response to potential coastal hazards and does not adversely impact neighbouring properties or public land.</i> <i>To allow development, despite coastal hazards, where risks associated with these hazards are accepted.</i> 	Yes. The Risk Management Plan (RMP) lodged with the application (Appendix I of the SEE) demonstrates that the development does not adversely impact neighbouring properties or public land and that the risks associated with coastal hazards on the subject site are accepted.
	<u>Performance Criteria</u> <i>For development between the Coastal Hazard Line and the Immediate Hazard Line:</i> 1. <i>All development applications must be accompanied by a Risk Management Plan that demonstrates that the landowner is aware of the risks applicable to the land. The complexity of the Risk Management Plan will be dependent on the size and location of the development. The Risk Management Plan must include:</i> a) <i>An acknowledgement of the risk of developing in this area.</i> b) <i>Details indicating how the identified risks will be managed.</i> c) <i>If the development is of a scale that has the potential to generate offsite impacts, evidence of how these impacts have been considered and addressed.</i>	Yes. The RMP lodged with the application (Appendix I of the SEE) demonstrates that the landowner is aware of the risks applying to the land. An acknowledgement of the risk of developing the land has been included, as well as details of how the risks will be managed. The development is not of a scale to potentially generate offsite impacts.
D3 Earthworks, Erosion and Sedimentation	<i>This section seeks to ensure that site planning for any proposed development takes into account the topography, geology and soils of the site and surrounding land. It also aims to minimise disturbance to existing landforms, costly earthworks and to protect existing and proposed development from becoming unstable.</i> <i>This section applies to all land within the LGA where any proposed development or land use involves the disturbance of the existing ground surface or placement of fill thereon, and/or result in changes to the shape of</i>	Yes. The site characteristics have been satisfactorily considered in the design of the development. The draft consent includes conditions to ensure that erosion and sedimentation controls

DCP Requirement	Summary of Requirement	Complies
	<i>the land. While this will include the excavation and filling of land, it may also include significant landscaping works and topsoil stockpiling.</i>	are in place during works.
G1.3 Parking Requirements for Specific Landuses	<i>Educational Establishments - Schools: 1 space per 2 full-time staff members; plus 1 space for every 10 x Year 11/12 students; plus, bicycle storage; plus pickup/set down area; plus 1 space per 100 students enrolled for visitor parking.</i>	The development will not result in increased staff or student numbers, therefore no additional parking is required.
Part N Landscaping Requirements	N1 – Landscaping Requirements	
	<u>Objectives</u> <ul style="list-style-type: none"> • <i>Maintain or improve the overall image and character of the area by ensuring that new development does not intrude on its surroundings and that an aesthetically pleasing environment is created for all;</i> • <i>Maintain and improve the visual amenity of townships consistent with the identified landscape character of an area;</i> • <i>Provide safe environments for users by avoiding or minimising the risks in landscaped areas, and providing landscaping which assists in crime prevention.</i> 	Yes. The Landscape Plans included at Appendix B of the SEE demonstrates that the proposed landscaping will have a positive effect on the amenity and landscape character of the area.
	N1.1 – Site Coverage and Lot Requirements	
	<u>Relevant Performance criteria</u> <ol style="list-style-type: none"> <i>1. Designs should reflect the unique local character of the area in which they are located.</i> <i>2. An assessment of the physical conditions of each site should be undertaken prior to design. Particular emphasis should be placed on the recognition of aspect, prevailing wind directions, soils, drainage and susceptibility of the site to flooding.</i> <i>5. Existing trees should be retained wherever possible and shall be protected during construction with temporary fencing (i.e. capped star pickets at 2m centres with hazard mesh) around their drip lines – outer edge of canopy. Existing areas of natural vegetation shall also be fenced and protected from soil disturbances, and should not be used for the storage of materials.</i> <i>6. Sites should be considered within the context of their importance and contribution to landscape connectivity and wildlife movement. Proposals should minimise the impact on native flora and fauna and their habitats, particularly threatened species and plant communities and ecological processes. Inclusion of measures to help offset any impacts (such as nesting boxes, bat boxes,</i> 	<p>The Landscape Plans included at Appendix B of the SEE demonstrate that the physical conditions of the site have been considered in the landscape design.</p> <p>Native coastal species have been used in the planting schedule and existing trees have been retained where possible and conditions included on the draft consent to ensure their protection during works.</p> <p>The site context as a “school” has been considered, with hard and soft landscaping</p>

DCP Requirement	Summary of Requirement	Complies
	<p><i>bird feeders, etc) should also be considered in the design.</i></p> <p><i>7. To maintain the ecological balance of the local area, indigenous plants (species natural to the local area) should be used in preference to native plants or exotic plants. Noxious weeds, pest plants and undesirable species should also be avoided.</i></p> <p><i>8. Species to be used should be well established, disease free, container or field grown stock that have been propagated for the specific site conditions, i.e. sun-hardened, shade and sun tolerant.</i></p> <p><i>9. Designs should contribute to the creation of pleasant microclimates by providing for summer shade and winter sun and capturing breezes.</i></p> <p><i>10. Utility services (sewerage, water, gas and power lines) should be considered early in the design phase to avoid disturbance to vegetation during future maintenance works. Tunnelling (directional boring) for underground services, rather than open trenching, should be undertaken in areas adjacent to existing trees to reduce injury to tree roots. Potential future impacts on the structural integrity of buildings (including footings) should be considered as well as the use of appropriate mitigation measures such as root pruning and root barriers.</i></p> <p><i>11. For the provision of safe environments plantings should avoid obscuring casual observation of sites and creating areas of dense vegetation, in order to maintain public surveillance and reduce the incidence of crime. Shrub plantings under 1m in height should be used to enable passive surveillance where this is desired. Surfaces should be non-slip, and trip hazards must be avoided. Potential injurious plants should not be used adjacent to pedestrian areas (e.g. sharply pointed or serrated leaves or plants which shed seed/fruit or are prone to dropping limbs). Poisonous plants and plants known to cause respiratory problems should not be used in designs for childcare centres and aged care facilities. Vehicular and pedestrian traffic should be separated.</i></p> <p><i>12. Components of landscapes should be in accordance with Australian Standards where they apply, such as:</i></p> <ul style="list-style-type: none"> <i>a. Areas subject to wetting per AS1141.2</i> <i>b. Pedestrian lighting per AS 1158.3</i> <i>c. Roadway sight line maintenance per AS 2890.1 (1993)</i> <i>d. Potting mixes per AS 3743 (1996)</i> <i>e. Outdoor lighting per AS 4282 (1997)</i> <i>f. Pruning amenity trees per AS 4373 (1996)</i> <i>g. Top dressing, landscape soils per AS 4419 (1998)</i> <i>h. Composts, mulches and soils per AS 4454 (1997).</i> <p><i>13. Implementation of Ecologically Sustainable Development (ESD) principles, including the selection of low-embodied energy materials, recycled materials</i></p>	<p>including an element of functionality, comprising shaded areas and seating areas. Visual corridors and accent plantings have been incorporated into the design, and paving materials are varied to provide visual interest. The design has a sense of unity with individual nodes linking together and integrating into the existing open play areas.</p> <p>The landscape plans have demonstrated that they comply with applicable standards, with particular emphasis on the NSW Educational Facilities Standards and Guidelines (EFSG). This ensures that plant species selection and planting design is appropriate for a school playground.</p>

DCP Requirement	Summary of Requirement	Complies
	<p><i>(e.g. chipping any removed vegetation and using the chips on site as mulch, re-use of on-site topsoil, and use of recycled plastic products), and design to ensure low resource consumption (e.g. drought hardy plantings to reduce water use, use of permeable paving and providing onsite detention/infiltration areas to allow rainfall to seep into the soil rather than run off). Water features should be avoided, and sprinklers should be used only in the evening, overnight, or early morning to minimise evaporation losses.</i></p> <p><i>14. Protection of visual amenity: unsightly activities and structures should be screened, and buildings should be framed and softened. The visual impact of car parks and roadways should be reduced by erecting fences and planting mounds and vegetative screens. Good views into and from the site should be used advantageously by siting viewing areas within visual corridors. Entry points should be clearly defined and can be enhanced by special feature / accent plantings to delineate them (e.g. strong plant forms, striking foliage colours, etc).</i></p> <p><i>16. All landscape designs should take into account ongoing maintenance requirements. Design, plant selection and construction techniques should facilitate efficient and low cost maintenance of the newly established and mature landscapes. Edgings to lawns are recommended to define turf areas and to minimise the invasion of turf grasses into garden beds. Use of low maintenance options should be considered as replacement for turf (e.g. mulched garden beds, groundcovers, gravel or hard paving). Turf areas should be free of surface rocks/debris to avoid harm to public safety during mowing. Any plantings (e.g. trees) in lawn areas must be planted into mulched island beds and not planted directly into the turf. This will reduce the risk of mowing damage and improve plant establishment by avoiding root competition from the turf. High use areas should be gravel or unit pavers rather than turf.</i></p> <p><i>17. The choice of hard landscaping materials should be made carefully. Large areas of paving can be enhanced by combining different paving materials (e.g. concrete/bitumen with brick grids or other paving patterns). Smaller areas of paving should be paved with a small-scale unit, which relates to the size of the area to be paved, e.g. brick cobble. Trees in paved areas should be surrounded with root barriers to encourage deep rooting and avoid shallow surface roots, which have the potential to disturb paving units.</i></p> <p><i>18. Hard landscaping should allow the infiltration of water into the soil, through for example permeable paving.</i></p>	

DCP Requirement	Summary of Requirement	Complies
	<i>19. Designs should have a sense of unity and a balance of repetition and contrast to avoid monotonous or chaotic forms of landscaping.</i>	

b) *The likely impacts of the development including environmental impacts on both natural and built environments and social/economic impacts in the locality*

Context and Setting

The development proposes only alterations and additions to an existing school, which has been operating on the site since 1935. The school has slowly grown in that time to cater now for over 400 children. The development proposes to replace seven temporary, demountable buildings of limited amenity and functionality, with one architecturally designed building that will improve the amenity of the school. The development is appropriate to its context and setting and will likely have a positive impact on the local streetscape.

Site Design and Internal Layout

The new building will be located on the western side of the school which will improve the connectivity of the open play areas in the eastern part of the site. The internal layout of the new building complies with the relevant design standards and achieves the design intent of the development.

Views

There are currently no significant views from the subject site, as the school is located to the west of the heavily vegetated hind dune system along Old Bar Beach, therefore there is unlikely to be any adverse impact on views as a result of the development.

Privacy (Aural and Visual)

The development is located within an existing school site. Although the development is two-storey, it would be located over 50m from the nearest residential dwellings which are on the western side of David Street and there are unlikely to be any adverse impacts caused by overlooking. The development moves the playground area further away from residential dwellings, therefore it is likely that there would be a reduction in the noise currently experienced by neighbours due to the current location of the open sports court, which is the proposed site of the new building. The proposed development has been designed and orientated to retain the privacy of the school children and nearby residential development.

Overshadowing

The shadow diagrams at Appendix A of the SEE demonstrate that there will be no unacceptable impacts from overshadowing.

Visual Impact

It is unlikely that the development will have an adverse impact on the scenic qualities of the locality. The character of the area which interfaces with where the development is to take place is urban. The architectural theme of the proposed new building reflects the use of the site as a school.

Access, Transport and Traffic

The development will not result in an increase in student or staff numbers, as it is replacing seven existing buildings. The existing car spaces and drop-off and pick-up areas will be retained. No additional impacts on the site or surrounding streets are likely, as a result of the development. A traffic impact assessment has been prepared and is included in Appendix K of the SEE.

Drainage

A site stormwater concept plan has been included with the application at Appendix D of the SEE. The plan demonstrates that the proposed development can adequately be connected to the existing stormwater management system for the site, and off-site drainage impacts are unlikely.

Flora and Fauna

Although adjacent Lots are heavily vegetated with littoral rainforest, there will be no vegetation removed for the proposed development. Erosion and sediment controls included in the conditions of consent will ensure that indirect impacts on the littoral rainforest are minimised. There is unlikely to be any impact on native flora or fauna as a result of the proposed development.

Climate Change

Climate change may have an impact on the stability of the entire school site due to an increased risk of coastal instability and inundation. The coastal risk management plan at Appendix I of the SEE examines the risks in detail (in accordance with the requirements of Council's DCP 2010) and estimates that the proposed new building is at a distance which would be approximately 100 years away from the 25m trigger distance required for building removal as a result of coastal recession. The recommendations of that plan include the use of either piled or conventional foundations, which is considered to be acceptable and consistent with Council's approach to coastal recession.

Cumulative Impacts

There are no adverse cumulative impacts likely as a result of the proposed development.

c) The Suitability of the Site for the Development

The subject site has been the location of Old Bar Public School since 1935, and therefore the site is suitable for the proposed development. The location of the new building on the western edge of Lot 239 provides improved privacy for both the children within the school and the surrounding residences, as it consolidates the open play area within the central part of the school. Additionally, the chosen location of the new building minimises the potential impacts of coastal hazards on the new building.

d) Any Submissions Made in Accordance with the Act or Regulations

The development was notified to potentially affected neighbouring properties for a period of 18 days commencing 18 September 2017 and finishing 5 October 2017. No submissions have been received by Council on the proposed development.

e) The Public Interest

The proposed development is within the public interest as it provides a positive alteration and addition to an important community asset. The school provides an educational facility that caters for over 400 students from the local area. The proposed development ensures that the facility can continue to provide a positive learning environment into the future.

CONCLUSION

The proposed development will have both social and economic benefits for the local community, achieves energy efficiency and delivers an improvement to a highly important community asset, being the local Public School.

The proposed development provides a significant opportunity to “future proof” Old Bar Public School to ensure that it can continue to deliver a high-quality education establishment that meets the needs of residents and represents rational, orderly, economic and sustainable use of the land.

RECOMMENDATION

It is recommended that Development Application 87/2018/DA for alterations and additions to Old Bar Public School on Lots 204, 222, 239 and 274 DP 753149 be approved in accordance with the conditions of consent contained in Annexure A.

ANNEXURES

A: Draft Conditions of Consent