

DATE OF DETERMINATION	Wednesday 11 April 2018
PANEL MEMBERS	Garry West (Chair), Pamela Westing, Stephen Gow, David Wright, Keith Williams
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Public meeting held at Lennox Head Community Centre, 1 Mackney Lane Lennox Head on 11 April 2018, opened at 1.38pm and closed at 1.50pm.

MATTER DETERMINED

2017NTH024 – Ballina – DA2017/509 at 25 Byron Street Lennox Head (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 the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel unanimously approved the applicant's request to vary the height standard in Clause 4.3 of the Ballina LEP 2012. The Panel considered the applicant's submission had demonstrated the matters required by Clause 4.6(3) had been addressed and that the relevant zone objectives and the objectives of the height standard will be met notwithstanding the variation.

The Panel determined to approve the development application as described in Schedule 1 pursuant to section 4.16 (previously section 80) of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The reasons for the decision of the Panel to approve the Clause 4.6 variation were:

- The Panel has considered the Applicant's request to vary the development standards contained in the Ballina Local Environmental Plan 2012 Clause 4.3 relating to height of buildings. The Panel notes the standard height limit applying to the site is 8.5 metres and the maximum overall height of the proposal is 9.04 metres over approximately 320m² of the roof area.
- The Panel is satisfied that the request has adequately addressed the matters to be demonstrated and the Panel considers compliance with the standard would be unreasonable and unnecessary in the circumstances of this case are:
 - The buildings will not significantly overshadow residential development;
 - There are no adverse impacts of the proposal on the school, streetscape or amenity of the area;
 - The height increase will reduce the hard stand footprint of the building on the site; and
 - The extent of the variation is approximately 14 metres from the western boundary and will not have unreasonable impacts.




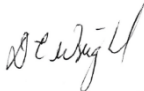
Further reasons for the decision of the Panel to grant approval were:

- SEPP 55 – Remediation of Land: Based on all the information available Council concluded there is no indication that the land might be contaminated;
- SEPP (Educational Establishments and Child care Facilities): The application was accompanied by a detailed design statement which adequately addresses the design principles set out in Schedule 4;

- SEPP 71 – Coastal protection: The proposed development is an upgrade to the existing school and is considered suitable for the subject site and surrounding environment and is consistent with the aims of the SEPP;
- The development will not result in an increase in student or staff numbers;
- An Aboriginal Archaeological Due Diligence Assessment confirmed the presence of Aboriginal objects on the site and will be potentially harmed by the proposed works. The Applicant will be required to obtain an Aboriginal Heritage Impact Permit from the Office of Environment and heritage (OEH) under the National Parks and Wildlife Act 1974 prior to the commencement of works;
- The loss of privacy for neighbouring residents to the west has been mitigated by upper level windows on the western and southern facades being generally angled away from neighbouring properties and are shielded by angled solid blade walls. Obscure glass, or similar, will also be provided on the western windows to a height of 1,5m;
- The proposed development will not unreasonably overshadow the neighbouring properties to the west, with each property maintaining a minimum of four hours sunlight to dwellings and rear courtyards.

CONDITIONS

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

PANEL MEMBERS	
 Garry West (Chair)	 Pamela Westing
 Stephen Gow	 David Wright
<i>Endorsed by email 19 April 2018</i> Keith Williams	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2017NTH024 – Ballina – DA2017/509
2	PROPOSED DEVELOPMENT	Alterations and Additions to Lennox Head Public School including the demolition of a number of demountable buildings and construction of new classrooms and amenities including administration building, two storey homebase building (exceeding the 8.5 metre building height standard), canteen, covered outdoor learning area, basketball court, landscaping and associated works.
3	STREET ADDRESS	Lot 1 DP 603799 & Lot 1 DP 435547 No. 25 Byron Street, Lennox Head
4	APPLICANT/OWNER	Conrad Gargett (on behalf of the NSW Department of Education)
5	TYPE OF REGIONAL DEVELOPMENT	Crown development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 State Environmental Planning Policy No.55 - Remediation of Land State Environmental Planning Policy No.71 – Coastal Protection Ballina Local Environmental Plan 2012 Draft environmental planning instruments: Draft Coastal Management State Environmental Planning Policy 2016 Nil Development control plans: <ul style="list-style-type: none"> N/A pursuant to cl. 35(9) of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: clauses 92 and 94 Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council assessment report: 28 March 2018 Written submissions during public exhibition: 3 Verbal submissions at the public meeting: <ul style="list-style-type: none"> Support – NIL Object – Monica Wilcox on behalf of Lennox Head Residents Association, raised issues regarding traffic safety On behalf of the applicant – Johannes Johns, Senior Project Manager
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Site inspection: 11 April 2018 Final briefing meeting to discuss council's recommendation, 11 April 2018. Attendees: <ul style="list-style-type: none"> <u>Panel members</u>: Garry West (Chair), Pamela Westing, Stephen Gow, David Wright, Keith Williams <u>Council assessment staff</u>: Peter Drew, Senior Assessment Planner; Dave Kelly, Manager Infrastructure Planning; and Andrew Smith, Manager Development Services
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report