

DATE OF DETERMINATION	Tuesday, 19 November 2019
PANEL MEMBERS	Michael Leavey (Chair), Kara Krason, Julie Savet Ward and Giacomo Arnott
APOLOGIES	Jason Perica and Ryan Palmer
DECLARATIONS OF INTEREST	Paul LeMottee – Le Mottee Group is currently doing some work for an adjoining owner.

Papers circulated electronically between 11 November 2019 and 18 November 2019.

MATTER DETERMINED

2018HCC046 – Port Stephens Council – DA16-201-775-1 at 6B Waropara Road, Medowie – Educational establishment including demolition of existing building, remove demountable buildings and construct new 3 level building (no increase to student numbers) (as described in Schedule 1)

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

Development application

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

The decision was unanimous.

REASONS FOR THE DECISION

The Panel generally agreed with the assessment of environmental impact, conclusions and recommendations within the Council staff report, and supports the application for the following reasons:

- The Panel supports the siting, design and materiality of the proposed building, which is appropriate for the site and its location;
- The proposal will improve educational facilities at the school;
- The proposal has addressed relevant statutory planning requirements and considerations, including the issue of a bushfire safety authority by the Rural Fire Service;
- While the matter had been deferred to consider options to secure a downstream drainage easement, the Panel is of the opinion that a deferred commencement condition as outlined in the Council assessment report is the appropriate mechanism to provide legal certainty that a downstream easement can and will be secured and to avoid downstream flooding impacts on adjoining properties, as has been raised in public submissions; and
- Matters raised in public submissions are able to be addressed through recommended conditions of consent, and further additional conditions.

CONDITIONS

The development application was approved as a deferred commencement consent subject to the conditions in the council assessment report, with the following additional conditions:

1.0 General Conditions of Consent

Amend condition 1.0 (1) 1 to list the general terms of approval/ conditions issued by the Rural Fire Service in their bushfire safety authority reference D18/8453 dated 10 January 2019.

2.0 – Prior to Issue of a Construction Certificate

- (3A) The stormwater/ drainage plans are to make provision for the capture of roof stormwater for an equivalent roof area as the new building (as a minimum), which may be provided on another building within the school, and for reuse for landscaping irrigation and maintenance.
- (10) An amended Landscape Plan is to be prepared and submitted to Council for approval to include a significant majority of plants which are local native species and an additional three trees, of local endemic species, in the front garden of the School between Waropara Road and the new building.
- (11) Detail of smart lighting technology to be implemented within the new building is to be submitted to Council for approval.

5.0 – Prior to Issue of an Occupation Certificate





- (10) Preparation and submission of a lighting management plan for the approval of Council, addressing light overspill to reduce nuisance to nearby properties, and including the use of timers to limit after hours light impacts on nearby properties.
- (11) Provide details of signage in an appropriate location to provide an after-hours contact telephone number for the school. Provide management process and action plan for handling of complaints to the satisfaction of Council.

Reasons: to include RFS requirements as clear part of the development consent; to improve the sustainability of the proposed building particularly in relation to efficient use of lighting and reduction in night light spill; to reduce stormwater runoff and energy use; to ensure appropriate species and additional planting are included in the proposed landscaping; to minimise external impacts of lighting; and to ensure an after-hours contact number and action management plan is provided for any issues associated with the school impacting on surrounding properties.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the Panel at the public meeting on 23 October 2019. The Panel notes that issues of concern included downstream drainage/ flooding, siting of the building, light glare and after-hours contact.

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report and recommended conditions of consent, including the deferred commencement requirement relating to downstream drainage, and with additional conditions of consent imposed by the Panel.

PANEL MEMBERS	
 Michael Leavey (Chair)	 Kara Krason
 Julie Savet Ward	 Giacomo Arnott

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2018HCC046 – Port Stephens Council – DA16-201-775-1
2	PROPOSED DEVELOPMENT	Educational establishment including demolition of existing building, remove demountable buildings and construct new 3 level building (no increase to student numbers)
3	STREET ADDRESS	6B Waropara Road, Medowie
4	APPLICANT/OWNER	Medowie Christian School
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities 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 No.55 – Remediation of Land State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 State Environmental Planning Policy (State and Regional Development) 2011 Port Stephens Local Environmental Plan 2013 (LEP2013) Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Port Stephens Development Control Plan 2014 (DCP2014) Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil 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: 25 September 2019 Applicant's MOU for downstream drainage, provided by Council staff Written submissions during public exhibition: 2 Verbal submissions at the public meeting: <ul style="list-style-type: none"> In support – Nil In objection – Leanne White, Peter Boshev Council assessment officer – Ryan Falkenmire, Rean Lourens On behalf of the applicant – Stephen Barr, Simon Heard, Justin Pearson
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 24 July 2019 <ul style="list-style-type: none"> <u>Panel members</u>: Jason Perica (Chair), Kara Krason, Michael Leavey, Cr Giacomo Arnott <u>Council assessment staff</u>: Ryan Falkenmire Site inspection: Wednesday, 23 October 2019 at 1:00pm <ul style="list-style-type: none"> <u>Panel members</u>: Michael Leavey (Chair), Kara Krason, Julie Savet Ward and Cr Ryan Palmer <u>Council assessment staff</u>: Ryan Falkenmire Final briefing to discuss council's recommendation, Wednesday, 23 October 2019 at 2:15pm <ul style="list-style-type: none"> <u>Panel members</u>: Michael Leavey (Chair), Kara Krason, Julie Savet Ward, Cr Giacomo Arnott and Cr Ryan Palmer <u>Council assessment staff</u>: Ryan Falkenmire, Rean Lourens

		<ul style="list-style-type: none"> Public Meeting, Wednesday, 23 October 2019 at 2:45pm <ul style="list-style-type: none"> <u>Panel members</u>: Michael Leavey (Chair), Kara Krason, Julie Savet Ward, Cr Giacomo Arnott and Cr Ryan Palmer <u>Council assessment staff</u>: Ryan Falkenmire, Rean Lourens
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report