

**Development Application 0857/18**  
**Section 4.15 Assessment**

a. the provisions of,

i. any environmental planning instrument, and

- ***State Environmental Planning Policy (SEPP) No. 55 – Remediation of Land***

This policy specifies that the consent authority must not consent to the carrying out of any development unless it has considered whether the land on which the development is proposed is contaminated and/or is required to be remediated for its intended use.

The specific location of the proposed building is not mapped as being subject to potential contamination from past land uses. Part of the overall site further to the west is mapped as being previously used for banana cultivation and subsequently the land is potentially contaminated. A preliminary contaminated land assessment report was submitted with the application. Test results in the location of the development were all below relevant thresholds. Council is satisfied the location of the proposed development is suitable having regard to potential contamination.

The development satisfies the relevant provisions of the Policy.

- ***State Environmental Planning Policy (Coastal Management) 2018***

The aim of this Policy is to manage development in the coastal zone and protect the environmental assets of the coast. The subject land is identified as being located within the 'Coastal Zone', as the land is identified by the 'Coastal Wetlands and Littoral Rainforests Area Map' 'Coastal Environment Area Map' and 'Coastal Use Area Map'. The following controls, therefore, apply to the development:

**Division 1 – Coastal wetlands and littoral rainforests area**

*Clause 10 – Development on certain land within coastal wetlands and littoral rainforests area.*

The proposed development is not within a coastal wetland or littoral rainforest area and consequently the provisions of this clause are not applicable.

*Clause 11 – Development on land in proximity to coastal wetlands or littoral rainforest.*

The development is proposed to be located within proximity to land mapped as 'Coastal Wetlands'. An assessment of impact in regard to the provisions of this Policy was submitted with the application. The ecological assessment found that the development would not significantly impact on: the biophysical, hydrological or ecological integrity of the adjacent wetland or littoral rainforest. Council's Biodiversity Officer concurred with the findings of the ecological assessment. Further, Council's Urban Engineer in the assessment of stormwater management is satisfied that the development will not significantly impact on the quantity and

quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.

### **Division 3 – Coastal environment area**

#### *Clause 13 – Development on land within the coastal environment area*

It is considered that the development is unlikely to cause adverse impacts on the following: the integrity and resilience of the biophysical, hydrological and ecological environment; the coastal environment and natural coastal processes; water quality of the marine state; marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms; existing public open space and safe access to an along the foreshore, beach, headland or rock platform for members of the public; and Aboriginal cultural heritage, practices and places; and use of the surf zone.

Council is satisfied that the development has been designed and sited in a way that avoids such impacts.

### **Division 4 - Coastal use area**

#### *Clause 14 Development on land within the coastal use area*

It is considered that the development is unlikely to cause adverse impacts on the following: access to the foreshore; overshadowing, wind funnelling and loss of views from public places to foreshores; visual amenity and scenic qualities of the coast; Aboriginal cultural heritage practices and places; and cultural and built environmental heritage.

Council is satisfied that the development has been designed and sited to avoid and manage impacts and is considered to be consistent with the surrounding coastal and built environment in terms of bulk, scale and size.

### **Division 5 – General**

#### *Clause 15 – Development in coastal zone generally – development not to increase risk of coastal hazards*

Council is satisfied that the proposed development is not likely to cause an increased risk of coastal hazards on the subject land or any other land.

#### *Clause 16 – Development in coastal zone generally – coastal management programs to be considered.*

The development proposal is located within the study area of the Boambee Newports Coastal Zone Management Plan (certified and gazetted). There are no actions within the plan that are directly relevant for this proposal.

- ***State Environmental Planning Policy (State & Regional Development) 2011***

Clause 20 of this Policy states that development specified in schedule 7 of the policy is declared to be regionally significant development for the purposes of the Act. Schedule 7 (4) includes development carried out by or on behalf of the Crown

that has a capital investment value of more than \$5 million constitutes regionally significant development. As the estimated cost of works is \$12 million the proposed development is considered regionally significant.

Pursuant to Section 4.5 (b) of the Environmental Planning and Assessment Act 1979 the determination functions of Council are to be exercised by regional panels for regionally significant development. Consequently the application will be determined by the Northern Region Planning Panel and not Council.

- ***State Environmental Planning Policy (Infrastructure) 2007***

Clause 101 of this policy is relevant to the proposal as the development site has frontage to a classified road (Hogbin Drive). This provision requires Council to be satisfied that the proposed development will not compromise the effective functioning of the classified road and that the development will not be significantly impacted by traffic noise or emissions.

A traffic impact assessment was provided with the application which examined the impact of the development on the ongoing operation of Hogbin Drive. The assessment concluded that the development would not compromise the ongoing operation and functioning of the classified road and that no specific traffic management devices, such as traffic lights, were warranted. Council's Engineering Section concurred with the findings of the assessment.

Council is satisfied that the development can be designed and constructed so that it will not be significantly impacted from traffic noise or emissions from vehicles using Hogbin Drive. A condition of consent is proposed requiring that details be provided to the relevant certifier that relevant noise criteria under the Australian Standards can be achieved for the development prior to construction commencing.

- ***State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017***

Clause 57 – traffic generating development – of this policy is relevant to the proposal as the new building will be able to accommodate more than 50 students and the site has direct vehicular and pedestrian access to a road.

In accordance with this provision Council is required to give written notice of the application to Roads and Maritime Service (RMS) and take into consideration any submission they may make and in addition also consider such matters as the accessibility of the site and any potential traffic safety, road congestion or parking implications of the development.

The application was referred to the RMS for their consideration and a submission of response was provided. The matters raised in the submission have been fully considered by Council and incorporated into the assessment of the application.

Council is satisfied that access both to and from the site for vehicles and alternative transport modes is adequate. New footpath is proposed from the existing car park to the new building and new footpath from the proposed new car park to Hogbin Drive. A condition of consent is proposed requiring the section of footpath from the new car park to Hogbin drive be increased in width to allow use for bicycles.

The application was accompanied by a traffic impact assessment, which considered the impact of the development on the public road network and required parking demand. The assessment undertaken indicates that the existing public road network has sufficient capacity to cater for the expected traffic generation and that sufficient car parking designed in accordance with relevant Australian standards is available to meet the needs of the development.

Council is satisfied that the provisions of this clause can be met.

- ***Coffs Harbour Local Environmental Plan (LEP) 2013***

*Zoning*

The subject land is zoned SP1 Special Activities and E2 Environmental Protection under LEP 2013. The proposed development is located exclusively within the SP1 zone component of the site. The proposed development constitutes an 'educational establishment' as defined under LEP 2013, which is a permissible land use within the zone.

***Part 4 – Principal Development Standards***

Clause 4.3 Height of Buildings

There is no specified maximum building height in the location of the proposed development. The development will have a total building height of 9.6m.

Clause 4.4 Floor Space Ratio

There is no specified floor space ratio for the site.

***Part 5 – Miscellaneous Provisions***

Clause 5.10 (8) – Aboriginal Places of Heritage Significance

Under the provisions of this clause Council must, before granting consent to the carrying out of development in an Aboriginal place of heritage significance: (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and (b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.

An Aboriginal Cultural Heritage Assessment prepared by a suitably qualified professional was submitted with the application. The assessment did not identify the site as a 'place of Aboriginal heritage significance', but nonetheless made certain recommendations in regard to protecting any Aboriginal objects in the event they may be unearthed in the course of constructing the development.

The Aboriginal Cultural Heritage Assessment was referred to the Office of Environment and Heritage (OEH) for their consideration as the experts in this area. The OEH raised no objections to the proposal in regard to Aboriginal cultural heritage matters and supported the recommendations of the assessment in regard to managing any unexpected finds.

It is proposed to include conditions of consent in relation to managing any unexpected finds of Aboriginal cultural heritage objects.

### ***Part 7 – Additional Local Provisions***

#### **Clause 7.1 Acid Sulfate Soils**

The site is mapped as containing class 4 Acid Sulfate Soils. The proposed development encompasses site works which will occur more than 2m below the natural ground surface. Accordingly, a preliminary acid sulphate soils assessment and management plan were submitted with the application. Council is satisfied that providing the recommendations of the management plan are adopted during relevant stages of construction, acid sulfate soils do not pose a risk to the development or environment.

#### **Clause 7.2 Earthworks**

This clause specifies a number of matters that must be considered for development proposals that involve earthworks. The recommended conditions include mitigation measures for erosion and sediment control and the development is considered satisfactory on consideration of the relevant matters.

#### **Clause 7.3 Flood Planning**

The site is mapped as flood prone; however the development will not result in any flooding impacts to the site itself or adjoining properties, subject to a minimum finished floor level for the proposed building being achieved. Appropriate minimum finished floor levels have been proposed.

#### **Clause 7.4 Terrestrial Biodiversity**

This clause specifies a number of matters that must be considered for development proposals on land identified as “Biodiversity” on the Terrestrial Biodiversity Map. The location of the new building is not mapped as ‘terrestrial biodiversity’ and is located approximately 400m from existing mapped ‘terrestrial biodiversity’ vegetation. Council is satisfied that the proposed development meets relevant matters for consideration outlined within the clause.

#### **Clause 7.6 Riparian Land and Watercourses**

This clause specifies a number of matters that must be considered for development proposals on land identified as ‘watercourse’ on the Riparian Lands and Watercourse Map. The overall site is identified on this map as Newports Creek adjoins the eastern boundary of the site. The new building however, is proposed to be located approximately 700m from Newports Creek. Consequently, Council is satisfied that the proposed development meets relevant matters for consideration outlined within the clause.

#### **Clause 7.8 Koala Habitat**

This clause specifies that development consent must not be granted to development on land to which this Plan applies unless the development is in accordance with Coffs Harbour City Koala Plan of Management, ISBN 0 7313 6050 8, published in November 1999.

The proposed development will be located approximately 125m from mapped Primary Koala Habitat to the South. The Ecological Assessment submitted with the application confirms that no vegetation will be required to be removed. The proposal was referred to Council's Biodiversity Officer for consideration in regard to potential impacts to the Koala. Council is satisfied that the proposed development can be undertaken in accordance with the Coffs Harbour Koala Plan of Management.

#### Clause 7.9 Airspace Operations

Clause 7.9 requires, where development will penetrate the Limitations or Operations Surface, Council is to consult the relevant Commonwealth body.

The land is located within the 48.06 contour on the Obstacle Limitations Map. Given that the proposed development will have an RL of 13.4m height, it is significantly lower than the RL height of 48.06m and consequently does not penetrate the Obstacle Limitations Surface. Consultation with the Commonwealth is, therefore, unnecessary.

The development satisfies the requirements of the Clause.

#### Clause 7.11 Essential Services

Essential services as prescribed by this clause are available to the site. In this regard the subject land is supported by reticulated water, sewer and stormwater infrastructure and suitable vehicular access can be provided to the development from Hogbin Drive.

#### Clause 7.13 Central Business District

This clause requires Council to consider whether the proposed development will detract from the Coffs Harbour central business district as being the primary business, office and retail hub of Coffs Harbour.

It is considered that the proposed development will not impact on the primacy of the CBD as the principal business, office and retail hub of Coffs Harbour City.

- ii. **any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has been approved),**

#### Coastal Hazard Planning Controls

Council resolved at its meeting of 27 November 2014, to seek a Gateway Determination from the Minister for Planning for a Planning Proposal to revise provisions relating to coastal hazards, including the introduction of an additional coastal hazards clause and associated maps in Coffs Harbour LEP 2013. Council subsequently resolved on 10 March 2016 that the Planning Proposal not be advanced until such time as the State Government Coastal Management Reforms are further advanced.

As the planning proposal has been placed on exhibition, it is a draft environmental planning instrument that requires consideration in the assessment of any development application.

The planning proposal applies to land that is located seaward of the 2100 coastal hazard line. The subject site is not located within this area and consequently the provisions of this draft clause are not applicable to the proposal.

### **iii. any Development Control Plan (DCP)**

- **Coffs Harbour Development Control Plan 2015**

The following components of the DCP are relevant to the proposal:

- **Part B Public Consultation**

The proposed development was advertised and notified to adjoining landowners for a period of 14 days. No submissions were received as a result of the notification and advertising process. A submission was received from the Coffs Harbour Local Aboriginal Land Council however, after receiving a copy of the Development Application process list. The submission consisted of a request for the Aboriginal Land Council to undertake an inspection of the site in relation to Aboriginal cultural heritage matters.

- **Part D Built Form Controls**

There are no specific built form controls applicable to the development given the sites zoning of SP1 Special Activities. Consequently built form considerations such as setbacks and general design have been considered on merit.

A setback of 63m is proposed for the built form to Hogbin Drive and approximately 14m for the landscaping which borders the proposed new car park fronting Hogbin Drive. The proposed setback to the public road is considered adequate and as a result the built form does not dominate the Hogbin Drive streetscape. The other proposed setbacks to Lot boundaries of approximately 500m, 16m and 3m are considered adequate in the context of the site.

The general design of the development is considered suitable in the location as the building provides visual interest to the public road frontage, incorporates a degree of articulation and proposes the use of a mixture of materials.

- **Part E3 – Contaminated Land**

This part of the DCP requires that land be suitable for its intended purpose, with potentially contaminated land being identified and remediated where necessary.

A contaminated land assessment report was submitted with the application. Test results in the location of the development were all below relevant thresholds. Council is satisfied the location of the proposed development is suitable having regard to potential contamination

– **Part E4 – Flooding**

This Part of the DCP specifies certain requirements for land mapped as flood prone. Educational establishments are identified in the DCP as a 'sensitive facility'. Sensitive facilities are required to provide for buildings that have a minimum finished floor level of the 500-year average recurrence interval flood level plus 500mm freeboard.

As discussed above the subject site is mapped as flood prone land. The application was accompanied by an assessment of flood risk which addresses the requirements of the DCP. The proposed development is not expected to result in any flooding impacts, subject to a minimum finished floor level for the proposed buildings being achieved. Appropriate minimum finished floor levels, which meet the requirements of the DCP, have been proposed and are shown on the submitted plans.

– **Part F1 Access and Parking**

Coffs Harbour Development Control Plan 2015 does not specify a specific on-site car parking rate for educational establishments. A car parking assessment utilising on-site survey data collected over a two day period was submitted with the application. The assessment found that the site benefitted from a surplus of existing car parking both currently and at the completion of the development. Council adopted a more conservative methodology in considering parking requirements for the proposed development, but came to a similar conclusion that sufficient car parking will be provided for the development.

– **Part F3 – Landscaping**

This part of the DCP specifies requirements in relation to landscaping for developments.

In relation to the species proposed to be planted, the application was accompanied by a concept landscaping plan which shows species consistent with the requirements of the DCP. It is considered that the landscaping will enhance, screen and soften the development.

The development satisfies the requirements of the Plan.

– **F6 Waste Management**

Waste generated from the development can be suitably stored and collected from the site. A waste bin area is proposed within the new car park. A condition of consent will ensure that the three waste streams are suitably catered for within the development.

**iiia any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and**

No Planning Agreement has been offered or entered into for this application.

- iv. the regulations (to the extent that may prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,**

The Regulations do not prescribe any matters relevant to the proposed development.

- v. any coastal zone management plan (within the meaning of the [Coastal Protection Act 1979](#)), that apply to the land to which the development application relates,**

The development proposal is located within the study area of the Boambee Newports Coastal Zone Management Plan (certified and gazetted). There are no actions within the plan that are directly relevant for this proposal.

- vi. the likely impacts of that development, including environmental impacts, on both the natural and built environments, and social and economic impacts in the locality,**

### **1. The natural and built environment**

The proposed development is not expected to result in any unacceptable environmental impacts. No vegetation removal is required to accommodate the new educational establishment or any associated infrastructure.

The site is mapped as flood prone, however, the development will not result in any flooding impacts to the site itself or adjoining properties, subject to a minimum finished floor level for the proposed building being achieved. Appropriate minimum finished floor levels have been proposed and are shown on the submitted plans.

The site is mapped as containing class 4 Acid Sulfate Soils. Accordingly, a preliminary acid sulfate soils assessment and management plan were submitted with the application. Council is satisfied that providing the recommendations of the management plan are adopted during relevant stages of construction, acid sulfate soils do not pose a risk to the development.

The specific location of the proposed building is not mapped as being subject to potential contamination from past land uses. Part of the overall site further to the west is mapped as being previously used for banana cultivation and subsequently the land is potentially contaminated. A preliminary contaminated land assessment report was submitted with the application. Test results in the location of the development were all below relevant thresholds. Council is satisfied the location of the proposed development is suitable having regard to potential contamination.

The proposed development will not result in any unacceptable impacts to the built environment. The site is already developed for the same purpose as the proposed development and currently incorporates buildings of a similar scale.

The development has been designed with a high level of permeability from the public domain, which allows long views to and from the development and thus diminishes the opportunity for concealment. The orientation of the development and primary access locations in conjunction with the use of a high amount of glazing will provide a high degree of casual surveillance. The site also benefits from surveillance by campus security.

## **2. Social impacts**

It is considered that the development is unlikely to result in any significant adverse social impacts in the locality. The design and location of the development is considered suitable having regard to the context of the site and locality.

The proposed development is not expected to result in any amenity impacts in the locality. The development is not located in proximity to any residential receivers and the nature of the use in conjunction with expected operating hours will not result in any noise impacts.

## **3. Economic Impacts**

The proposed development will not result in any adverse economic impacts in the locality. The development is purpose built to offer new courses in the health related field to students at the Coffs Harbour Education Campus. The proposal is likely to have a positive economic impact by attracting additional students to Coffs Harbour to take advantage of the new courses on offer. The proposal will also provide employment opportunities during the construction and operational phase of the development.

### **b. the suitability of the site for the development,**

The site is considered to be suitable for the development having regard to the developments use as an educational establishment within an existing education campus. Reticulated sewer and water services and vehicular and pedestrian access are available to the site. The site allows for the facility to be designed so that it will not result in any environmental impacts.

### **c. any submissions made in accordance with this Act or the regulations,**

The proposed development was advertised and notified to adjoining landowners for a period of 14 days. No submissions were received as a result of the notification and advertising process. A submission was received from the Coffs Harbour Local Aboriginal Land Council however, after receiving a copy of the Development Application process list. The submission consisted of a request for the Aboriginal Land Council to undertake an inspection of the site in relation to Aboriginal cultural heritage matters.

#### Office of Environment and Heritage

An Aboriginal Cultural Heritage Assessment prepared by a suitably qualified professional was submitted with the application. This assessment included an inspection of the site in the company of a representative of the Coffs Harbour and District Local Aboriginal Land Council. The assessment did not identify the site as a 'place of Aboriginal heritage significance', but nonetheless made certain recommendations in regard to protecting any Aboriginal objects in the event they may be unearthed in the course of constructing the development.

The Aboriginal Cultural Heritage Assessment was referred to the Office of Environment and Heritage (OEH) for their consideration as the experts in this area. The OEH raised no objections to the proposal in regard to Aboriginal cultural heritage matters and supported the recommendations of the assessment in regard to managing any unexpected finds.

Council is satisfied that Aboriginal cultural heritage has been appropriately considered in the assessment of the application.

NSW Rural Fire Service (RFS)

The site is mapped as being bushfire prone land. The application was not nominated as integrated development (special fire protection purpose), however, noting that Planning for Bushfire Protection 2006 makes a distinction between schools and tertiary institutions. Planning for Bushfire Protection 2006 does however specify that class 9 assembly buildings, such as that proposed, should be considered as if they were a 'special fire protection purpose' and consequently the application was referred to the NSW Rural Fire Service for advice.

The RFS provided a response which outlined recommendations to be incorporated into the development consent. Council is satisfied the proposed development will be able to comply with all the recommendations and it is proposed to incorporate the recommendations as conditions of consent.

NSW Roads and Maritime Service (RMS)

Pursuant to relevant provisions of State Environmental Planning Policy (Infrastructure) 2007 and State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 the application was referred to the NSW RMS for advice.

The RMS provided a response which outlined a number of matters for Council to consider. The matters raised in the submission have been fully considered by Council and incorporated into the assessment of the application.

NSW Police

The application was referred to the NSW Police as a non-statutory referral for their consideration in regard to crime prevention through environmental design principles. The NSW Police did not make a submission on the proposal. Regardless, an assessment of the development against Safer by Design principles has been undertaken for the development and is discussed elsewhere in this report.

**d. the public interest:**

The proposed development is not considered to be contrary to the public interest.