

DATE OF DETERMINATION	21 November 2019
PANEL MEMBERS	Garry West (Chair), Pamela Westing, Stephen Gow and Denise Knight
APOLOGIES	Tegan Swan
DECLARATIONS OF INTEREST	None

Papers circulated electronically between 14 November 2019 and 21 November 2019.

MATTER DETERMINED

2019NTH013 – Coffs Harbour City Council – 0742/19DA – educational facility - 421 Hogbin Drive COFFS HARBOUR (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.

Application to vary a development standard

Following consideration of a written request from the applicant, made under cl 4.6 (3) of the Coffs Harbour Local Environmental Plan 2013 (LEP), that has demonstrated that:

- a) compliance with cl. 4.3 (development standard) is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard

the panel is satisfied that:

- a) the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- b) the development is in the public interest because it is consistent with the objectives of cl. 4.3 (development standard) of the LEP and the objectives for development in the zone; and
- c) the concurrence of the Secretary has been assumed.

The panel notes the applicant's Clause 4.6 written request has misquoted the height measurements but that the Council's assessment correctly calculates the maximum height; the panel is satisfied the Clause 4.6 application satisfies the relevant objectives.

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 3:1 in favour, against the decision was Stephen Gow.

REASONS FOR THE DECISION

The panel determined to uphold the Clause 4.6 variation to building height; and approve the application for the reasons outlined in the council assessment report.

Stephen Gow disagreed with the majority decision for the following reasons:



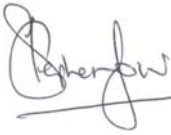

Mr Gow noted the advice from Council concerning the numerical error in the applicant's submission pursuant to cl. 4.6 of the LEP. While supporting the proposal on merit, he was of the view that the submission should be corrected to reference the correct height variation being sought before the application is granted conditional consent.

CONDITIONS

The development application was approved subject to the conditions in the council assessment report.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel notes that no written objections were made during public exhibition and therefore no issues of concern were raised.

PANEL MEMBERS	
 Garry West (Chair)	 Pamela Westing
 Stephen Gow	 Denise Knight

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2019NTH013 – Coffs Harbour City Council – 0742/19DA
2	PROPOSED DEVELOPMENT	Educational facility (demolition, alterations and additions to an existing school)
3	STREET ADDRESS	421 Hogbin Drive COFFS HARBOUR
4	APPLICANT OWNER	Geo Link The Trustees of the Roman Catholic Church for the Diocese of Lismore
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 44 – Koala Habitat Protection State Environmental Planning Policy No 55 – Remediation of Land State Environmental Planning Policy (Coastal Management) 2018 State Environmental Planning Policy (Education establishments and child care facilities) 2017 State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy (State and Regional Development) 2011 Coffs Harbour Local Environmental Plan 2013 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Coffs Harbour Development Control Plan 2015 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Clause 92(b) the provision of AS 2601 (demolition) 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: 30 October 2019 Clause 4.6 variation requests on page 29 – 32 of Statement of Environmental Effects
8	PAPERS CIRCULATED ELECTRONICALLY	<ul style="list-style-type: none"> Papers were circulated electronically between 14 November 2019 and 21 November 2019
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report