

DETERMINATION AND STATEMENT OF REASONS

HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

DATE OF DETERMINATION	4 July 2025
DATE OF PANEL DECISION	4 July 2025
DATE OF PANEL MEETING	1 July 2025
PANEL MEMBERS	Tony McNamara (Alternate Chair), Roberta Ryan, Granville Taylor
APOLOGIES	Alison McCabe
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 24 June 2025.

MATTER DETERMINED

PPSHCC-313 – Muswellbrook – DA2024-60 – Educational Establishment – School – 72 – 74 Maitland Street, Muswellbrook 2333 (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.

The Panel was previously briefed on this matter and raised issues of:

- The proposal is for a new school on a brownfields site which is flood prone;
- The issue of bus availability and ownership in the event of an evacuation;
- Management of the balance of the site outside the school footprint;
- A clear understanding of evacuation and timing triggers in the event of an evacuation;
- Issues related to quality and value of trees to be removed to facilitate traffic and parking;
- Appropriateness of the site for a school given its identified constraints.

The above matters have been addressed by the applicants and examined in detail by Council officers in their assessment report.

The issue of specific interest is that of compliance with Cl 5.22 Special Flood Considerations of Muswellbrook LEP 2009 which deals with sensitive development on land between the flood planning area and the PMF. This development application which is for a school covering students from kindergarten to Year 12 is covered by Cl5.22.

The Panel notes that the site was zoned R1, 18 November 2022 making the development permissible with consent. (See written advice from Muswellbrook Council dated 1 July 2025). It is understood that the council contemplated the likely development of a school on the site at the time of rezoning and were of the view that given hours of operation, the absence of residential occupation, the management of the site by a single entity, and the avoidance of that part of the site which falls within the flood planning area, the anticipated use was suitable.

The Panel, having interrogated all information available, including the council assessment report and associated documentation, concurs with that view.

The Panel noted that the NSW SES are on record as being opposed to the proposed development principally on the grounds that a Flood Emergency Response Plan (FERP) should not be used to justify a new development on vacant flood prone land. The Panel respects the view of the SES and has treated it as a matter for consideration under NSW Planning Circular PS 24-001. Based on that assessment which has

been undertaken by the applicant and has been the subject of peer review, and accepted in the council report, the Panel is of the view that with all measures required by the Conditions of Consent, the flood risk on the subject site is manageable.

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 determined to approve the application for the reasons outlined in the Council Assessment Report and for the following reasons:

1. The proposed development is consistent with the policy framework adopted for the site as evidenced by its rezoning in 2022.
2. By following the guidance provided through NSW Planning Circular PS 24-001, the risk presented by flooding on the site is assessed to be manageable.

CONDITIONS

The Development Application was approved subject to the conditions in the Council Assessment Report with the following amendment. This condition was added to make it explicit that structures have been designed to comply with Planning Circular PS 24-001.

- All structures proposed to be constructed on the site are to be designed to withstand flood impacts.
- REASON: Compliance with the requirements of NSW Planning Circular PS-24001.




CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel notes that 2 written submissions by way of objection were made during public exhibition and 7 submissions were made in support.

The objection by the NSW SES has been addressed in the commentary above.

The second objection was primarily focused on the possibility that the applicant would seek to expand the capacity of the school at some time in the future, which would require more buildings and facilities. When questioned on this matter the school principal stated that the current proposal would exceed likely school enrolments at opening, but the school would likely seek further expansion given the lack of availability of private schools in the locality.

The Panel acknowledged that any future expansion would be a matter for a new development application or a modification application which would be assessed and determined on its merits.

PANEL MEMBERS	
 Tony McNamara (Alternate Chair)	 Roberta Ryan
 Granville Taylor	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-313 – Muswellbrook - DA 2024-60
2	PROPOSED DEVELOPMENT	Educational Establishment (School)
3	STREET ADDRESS	72 – 74 Maitland Street, Muswellbrook 2333
4	APPLICANT/OWNER	Pacific Brook Christian School Ltd Pacific Brook Christian School Ltd
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 (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Sustainable Buildings) 2022 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Industry and employment) 2021 Muswellbrook Local Environmental Plan 2009 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Muswellbrook Development Control Plan 2009 Planning agreements: Nil Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> 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: 24 June 2025 Total number of unique submissions received by way of objection: 2 Background on site rezoning – 72 to 74 Maitland Street, Muswellbrook
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Initial Briefing: 18 November 2024 <ul style="list-style-type: none"> <u>Panel members</u>: Alison McCabe (Chair), Roberts Ryan, Tony McNamara, Granville Taylor <u>Applicant Representatives</u>: Chris Baldry, Janet Walsh, Richard Wykes, Travis McDonald, Stephen Earp, Amy Cropley, Darren Lyons, Melanie Karaca, Andre Morse <u>Council assessment staff</u>: Hamish McTaggart, Donna Watson, Peter Chambers <u>Department</u>: Leanne Harris, Holly McCann Site inspection: <ul style="list-style-type: none"> Roberta Ryan: 18th March 2025 Granville Taylor: 30th March 2025

		<ul style="list-style-type: none"> • Applicant Briefing: 18 March 2025 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Tony McNamara, Granville Taylor, Kellie Scholes ○ <u>Applicant representatives</u>: Chris Baldry, Janet Walsh, Richard Wykes, Travis McDonald, Stephen Earp, Amy Cropley, Darren Lyons, Andrew Morse ○ <u>Department</u>: Leanne Harris; Holly McCann • Final briefing to discuss council's recommendation: 1 July 2025 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Tony McNamara (Alternate chair), Roberta Ryan, Granville Taylor ○ <u>Council assessment staff</u>: Hamish McTaggart, Sharon Pope, Donna Watson, Peter Chambers ○ <u>Applicant representatives</u>: Chris Baldry, Ray Kearns, Janet Walsh, , Stephen Earp, Amy Cropley, Darren Lyons, Andrew Morse, Melanie Karaca ○ <u>Department</u>: Holly McCann
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report