

COUNCIL ASSESSMENT REPORT

NORTHERN REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSNTH-156– DA22/0152
PROPOSAL	Extensions to an existing school comprising of a senior student centre, new food technology classrooms, increase in student and staff numbers and additional car parking and vehicular access.
ADDRESS	Lot 2 DP 1018747 86 Mahers Lane Terranora 2486
APPLICANT	Newton Denny Chapelle
OWNER	Lindisfarne Anglican Grammar School
DA LODGEMENT DATE	10 March 2022
APPLICATION TYPE	Development Application - Integrated
REGIONALLY SIGNIFICANT CRITERIA	Section 2.19(1) and Clause 5(b) of Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> declares the proposal regionally significant development as it proposes an educational establishment with a CIV of more than \$5 million.
CIV	\$10,160,000 (excluding GST)
CLAUSE 4.6 REQUESTS	No variations to development standards requested
KEY SEPP/LEP	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> • <i>State Environmental Planning Policy (Industry and Employment) 2021</i> • <i>State Environmental Planning Policy (Planning Systems) 2021</i> • <i>State Environmental Planning Policy (Primary Production) 2021</i> • <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> • <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> • <i>Tweed Local Environmental Plan 2014;</i> • <i>Tweed Local Environmental Plan 2000;</i> • <i>Tweed Development Control Plan 2008:</i> <ul style="list-style-type: none"> ○ <i>Section A2 – Site Access and Parking Code</i> ○ <i>Section A15 – Waste Management</i> ○ <i>Section A19 – Biodiversity and habitat management</i>

	<ul style="list-style-type: none"> ○ <i>Section B24 – Area E Urban Release Development Code</i> ● <i>Tweed Coast Comprehensive Koala Plan of Management</i>
TOTAL & SUBMISSIONS ISSUES SUBMISSIONS	<p>Five (5) submissions, with the following issues raised:</p> <ul style="list-style-type: none"> ● Existing traffic congestion and increase in traffic generation ● Inadequate Traffic Report (Year 12 had finished) ● Impact on intersection of Maher's Lane Terranora Road ● Cumulative traffic impact with other residential subdivision on Mahers Lane ● Inadequate notification Process ● Inadequate hydraulic Services, ● Right turn lane into site and whether roadworks included ● Timing/requirements for Broadwater Parkway ● Increased traffic due to roadworks on Scenic Drive ● Mahers Lane & Eaglemont Dr intersection signage ● Parents not to block driveways
DOCUMENTS SUBMITTED FOR CONSIDERATION	<p>Statement of Environmental Effects Amended Architectural Design Plans Amended Engineering plans Amended Landscape plans Amended Hydraulic Services Report dated 23/02/2023 Amended Traffic Engineering Report and Letter Report Operational Transport and Access Management Plan ('OTAMP') Engineering services report Bushfire Assessment Report & correspondence Biodiversity Assessment Report Amended Arboricultural Report Tweed Byron Local Aboriginal Land Council Report Design Quality Principles Assessment: Education SEPP 2017 Geotechnical Report Waste Management Plan Crime Prevention Through Environmental Design Report Amended Construction & Operational Noise Assessment Amended Preliminary Site Investigation dated 12/11/2022 Quantity Surveyor Report 1 & 2 Letter regarding no sale of food Habitat Restoration Plan RFI Response letter Master Plan Sustainability report Dial before you dig</p>

SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)	Nil
RECOMMENDATION	Approval
DRAFT CONDITIONS TO APPLICANT	Yes
SCHEDULED MEETING DATE	24 May 2023
PLAN VERSION	8 & 9 May 2023
PREPARED BY	Kim Johnston/Judith Evans
DATE OF REPORT	11 May 2023

EXECUTIVE SUMMARY

The development application (DA 22/0152) seeks consent for additions to the existing Lindisfarne Anglican Grammar School including two (2) new buildings, refurbishment of an existing classroom, additional student and staff numbers to 1,378 and 151 respectively (already attending) and additional parking. Formalisation of the southernmost access driveway, associated works to Mahers Lane, removal of 8 trees, pedestrian pathways and earthworks are also proposed.

An additional gross floor area of 1,803.6m² is proposed, which combined with the existing floor area results in 13,794.2m² with an FSR of 0.086:1. A maximum building height of 12.8 metres is proposed, resulting in a compliant height and FSR for the site.

The application is referred to the Northern Regional Planning Panel as the development is '*regionally significant development*', pursuant to Clause (5)(b) of Schedule 6 of the Planning Systems SEPP as the proposal is for an educational establishment with a CIV of more than \$5 million.

The site is located at 86 Mahers Lane Terranora, on the eastern side of Mahers Lane, approximately 9 kilometres to the north-east of Tweed Heads. The site has a total area of 16 hectares and slopes down from the street frontage to the east at approximately 18%. The eastern portion comprises forested land containing a second order stream, where only habitat restoration works are proposed. The site is part of an Urban Release Area known as Area E.

The existing development comprises multiple school buildings comprising one (1) to three (3) storeys, sports fields, vehicle and pedestrian areas and parking. The buildings are generally clustered in the northwest portion of the site, with sports fields and open space located in the southern portion. While the school owns the adjoining allotments, no works are proposed in those adjoining lots in this proposal.

The site is not flood liable, however, comprises bushfire prone land and has a small portion mapped as predictive for Aboriginal Cultural Heritage and as State Significant Farmland. There are several easements affecting the site, although not impacted by the proposal.

The surrounding uses are a mix of rural, low density, and large lot residential development. Land to the north, east and south of the site is undeveloped rural land used primarily for rural residential purposes. To the west on the other side of Mahers Lane is an established low

density residential area comprising mainly of single dwellings. South of the site adjacent to Terranora Road is large lot residential development.

The site is located in the R1 – General Residential zone under the *Tweed Local Environmental Plan 2014* and the proposal is permissible with consent pursuant to the LEP and Section 3.36(1) of the Transport & Infrastructure SEPP. The application is integrated development as a Bushfire Safety Authority is required, which has been issued.

The application was placed on public exhibition and five (5) submissions were received, objecting to the proposal. The issues raised in submissions included concerns with additional traffic generation, existing traffic congestion problems, potential impacts to nearby intersections, concerns with the hydraulic services and concerns with the notification process. These matters have been considered in this report and are addressed in conditions where relevant.

A Panel briefing was held in September 2022 where several key issues were discussed including the potential traffic impacts, water provision for fire hydrants, removal of koala food tree and offsetting, proposed upgrades to Mahers Lane and the existing and future residential development in the surrounding area to the north and east identified in the DCP. The Panel required a number of matters to be addressed, which have now been provided and are considered to be satisfactorily addressed with relevant conditions recommended.

A number of key issues were identified in this assessment which included:

- Traffic, access and car parking – The issues considered include the advice from Transport for NSW, traffic generation and capacity of the road network and intersections, the adequacy of the Traffic Report, the bus and parent pick up and drop off arrangements, vehicle access to the site, the required works to Mahers Lane and the car parking provision for the site. A deferred commencement condition has been recommended to be imposed to amend the design of proposed Car Park A as there were concerns raised by Council's Traffic Engineer that the through-car park design could cause congestion and conflict where it joins the internal road opposite the exit to the bus and parent drop off areas and that additional on-site parking for parents for student pick up should be provided to ease congestion in the afternoon along Mahers Lane. The proposal is satisfactory subject to conditions.
- Ecological issues – The proposal involves the removal 8 trees, including a koala feed tree. A Habitat Restoration Plan has been provided which outlines compensatory planting for the removal of these trees within the vegetated area in the eastern portion of the site. The proposal has been reviewed by Council's Biodiversity Planner and no objections were raised subject to conditions of consent.
- Services (water, sewer, stormwater) – The services required by the proposal will require augmentation, with Council's Engineers raising no objections subject to the recommended conditions of consent.
- Earthworks – Excavation and filling are required on the site to provide for the proposed new classrooms and car parking. The proposal is considered to be satisfactory having regard to Clause 7.2 of the LEP subject to the recommended conditions of consent.
- Noise – There will be some exceedances of the adopted standards, largely for construction noise which are short-term, however, impacts will be minimised by the recommended conditions of consent.

Other issues included building form, Aboriginal cultural heritage and matter related to safety, security and crime prevention, which were satisfactory. These key issues are considered in detail in Section 5 of this report and are considered satisfactorily resolved subject to the recommended consent conditions.

Assessment under Section 4.15(1) of the EP&A Act concluded that the proposal is generally consistent with the relevant planning controls. The site is also considered suitable for the development and there are unlikely to be any significant adverse impacts arising from the proposal subject to the recommended conditions. The proposal is considered to be in the public interest given enhanced educational opportunities are provided by the proposal with impacts mitigated.

Following a thorough consideration of the application, it is considered that the proposal has adequately addressed potential impacts and relevant recommended consent conditions are provided for the Panel's consideration. The proposal is consistent with the planning controls and the jurisdictional preconditions to the grant of consent have been satisfied.

Accordingly, the development application is recommended for approval subject to the conditions, including the issuing of a Deferred Commencement Consent, as contained at **Attachment 1** of this report.

Contents

1. THE SITE AND LOCALITY	7
1.1 The Site	7
1.2 The Locality	9
2. THE PROPOSAL AND BACKGROUND	9
2.1 The Proposal	9
2.2 Background.....	14
2.3 Future Development Plans.....	18
3. STATUTORY CONSIDERATIONS.....	19
3.1 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations	22
3.2 Section 4.15(1)(b) - Likely Impacts of Development	46
3.3 Section 4.15(1)(c) - Suitability of the site	48
3.4 Section 4.15(1)(d) - Public Submissions	48
3.5 Section 4.15(1)(e) - Public interest.....	48
4. REFERRALS AND SUBMISSIONS.....	49
4.1 Agency Referrals and Concurrence	49
4.2 Council Officer Referrals	49
4.3 Community Consultation	50
5. KEY ISSUES	54
5.1 Traffic & Parking	54
5.2 Ecological Issues	70
5.3 Aboriginal Cultural Heritage	77
5.4 Services.....	78
5.5 Earthworks.....	81
5.6 Building Form.....	84
5.7 Safety, Security and Crime Prevention.....	84
5.8 Noise	86
6. CONCLUSION.....	87
7. RECOMMENDATION.....	87

1. THE SITE AND LOCALITY

1.1 The Site

The site is legally described as Lot 2 in DP 1018747 and is known as No 86 Mahers Lane Terranora ('the site'). The site is located on the eastern side of Mahers Lane, approximately 9 kilometres from Tweed Heads, located to the north-east of the site. The site has a 241 metre frontage to Mahers Lane and slopes down from the Mahers Lane frontage, with elevation ranging from 105 metres to 70 metres at the rear of the site. The site has an easterly slope of approximately 18% and has a total area of 16 hectares.

The existing school extends to the adjoining allotment, Lot 1 in DP 1018747, however, there are no works proposed in that allotment in this application.

Mahers Lane connects with Terranora Road, a local road located approximately 630 metres to the south of the site, comprising two (2) lanes which winds through undulating topography along the ridge line and connects with the Pacific Motorway to the east of the site. Terranora Road provides the primary connection between Bilambil, Banora Point and North Tumbulgum to the greater Tweed area. Eaglemont Drive is a local road providing access to residential properties and is located to the southwest of the site.

The eastern (rear) portion of the site is steeply sloping, forested land that contains a second order stream and a small dam/waterhole. The only works proposed in this portion of the site are the habitat restoration works as outlined in this report (**Figure 1**). The site is part of an Urban Release Area known as Area E. The site is not flood liable, however, is partially mapped as State Significant Farmland, bush fire prone land and predictive for Aboriginal Cultural Heritage.



Figure 1: The Site (Source: SIX Maps)

The existing development at the site comprises multiple school buildings comprising one (1) to three (3) storeys, sports fields, vehicle and pedestrian areas and parking. The buildings are generally clustered in the northwest portion of the site, with sports fields and open space located in the southern portion of the site (**Figure 2**). A number of demountable buildings are also located throughout the site.

Vehicle access to the site is from Mahers Lane via two existing access driveways, one at the north-western corner of the site and the other located approximately midway along the road frontage to Mahers Lane. There are other informal vehicle access points to the school, which are considered in this report. Mahers Lane is currently a no-through road which terminates approximately 700 metres north of the school site.

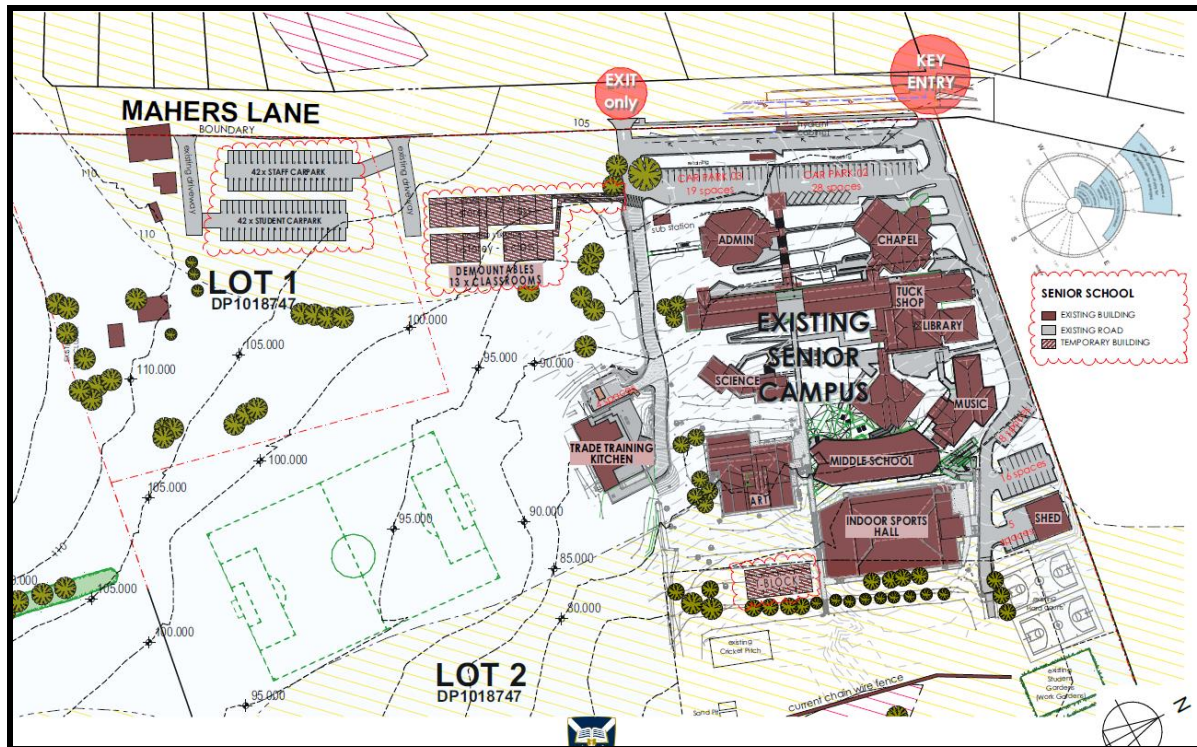


Figure 2: Existing Site Plan (Source: Raunik, March 2023)

There are several easements affecting the site (**Figure 3**), including:

- Easements 4 metres wide and variable located on the south and eastern boundaries for pumping water
- 3.5 metre wide easement along northern boundary for underground power
- Restriction on use of land under DP268239 relating to the power easement
- *Restriction as to user* affecting part of the site and previous owners from taking action against the owners of Lot 1 in relation to the use of the land for agricultural purposes.

The proposal does not impact on any of these easements or restrictions.

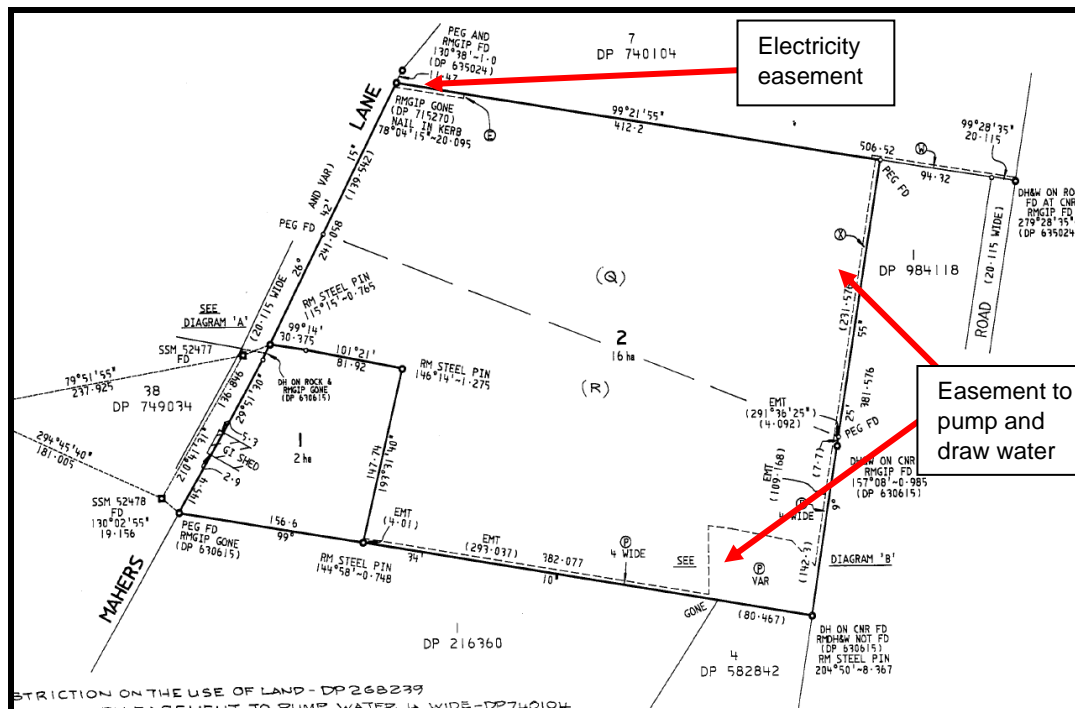


Figure 3: Deposited Plan (Source: Legalstream, April 2023)

1.2 The Locality

The surrounding land uses are a mix of rural, low density, and large lot residential development. Land to the north, east and south of the site is undeveloped general residential zoned land used primarily for rural residential purposes. There does not appear to any active agricultural activities being conducted on this land. An additional two lots to the south of the site are also owned by the school and are currently used for rural residential purposes.

To the west on the other side of Mahers Lane is an established low density residential area comprising mainly of single dwellings. South of the site adjacent to Terranora Road is large lot residential development.

A local shopping centre is located approximately 900 metres from the site on the corner of Terranora Road and Henry Lawson Drive. Terranora Public School is also located on the opposite corner of Terranora Road and Henry Lawson Drive. A bus route is located along Terranora Road.

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The proposal seeks consent for additions to the existing Lindisfarne Anglican Grammar School ('the School') including a new building, additional student and staff numbers and additional parking.

Specifically, the proposal involves:

- Construction of the following additional buildings:

- Two (2) storey Senior Student Centre with a GFA of 1,599.7m² to be attached to an existing building and includes an indoor running track, study areas (group work and quiet areas), kitchen, meeting rooms, offices, careers office and waiting area, and an extension of the existing gym (from adjoining building) on the lower floor. The upper floor includes a lecture hall with retractable seating, study/collaborative areas area, amenities, a break-out/foyer area as well as a new outdoor terrace on the northern side;
 - Two (2) food technology class rooms with a total GFA of 231.6m². The new class rooms will be attached to the existing trade training kitchen building and comprise multiple food preparation areas (stoves, sinks and benches), fridges and storage as well as teacher preparation areas; and
 - New lift and stair access for the new seniors centre adjoining the northern side of the existing trade training kitchen building comprising a lift and stairs at ground level to connect with the new seniors building and upper level access via the existing outdoor terrace adjoining the existing trade training kitchen building (no additional GFA given this is an outdoor area and comprises common vertical circulation).
- Refurbishment of the existing food theory class room (56.2m²) adjoining the new food technology classrooms (outlined above);
 - Increase in student numbers (from 864 to 1,378) and staff numbers (from 86 to 151);
 - Additional on-site car parking of 115 spaces and upgrade to the internal vehicular access to provide additional drop off and pick up facility;
 - Formalisation of the western driveway access driveway and associated works to Mahers Lane;
 - Removal of approximately 8 trees to facilitate construction of the new car parking areas;
 - Construction of pedestrian pathways throughout the site; and
 - Earthworks to provide for the construction of the proposed car parking areas and the proposed new buildings.

The key development data is provided in **Table 1** below and the proposal is illustrated in **Figures 4 to 8** and in the accompanying architectural plans.

Table 1: Development Data

Control	Proposal
Site area	16 hectares
GFA	13,794.2m ² (1,803.6m ² (proposed) + 11,990.6m ² existing)
FSR	0.086:1 (Max 2:1)
Max Height	12.8m (Max – 13.6m)
Landscaped area	Approx. 11 hectares retained as open space
Car Parking spaces	115 (new) plus 88 (existing) – total 203 new spaces
Setbacks	<p><i>Front</i> 3m to parking (approximate) 124 to building (approximate) <i>Side – Building</i> 45m approximate to nearest side boundary. <i>Rear – Building</i> 250m approximate</p>
Student and Staff Numbers	<ul style="list-style-type: none"> • Increase in student number from 864 to 1,378 • Increase in staff numbers from 85 to 151

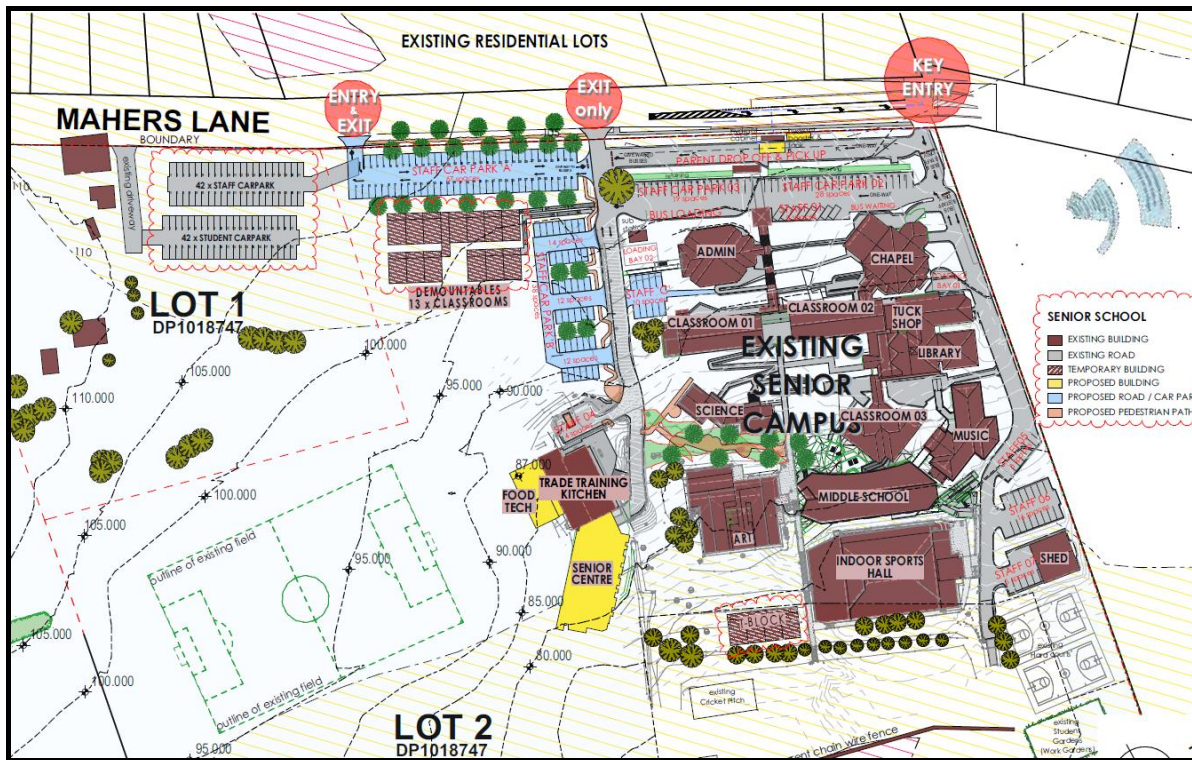
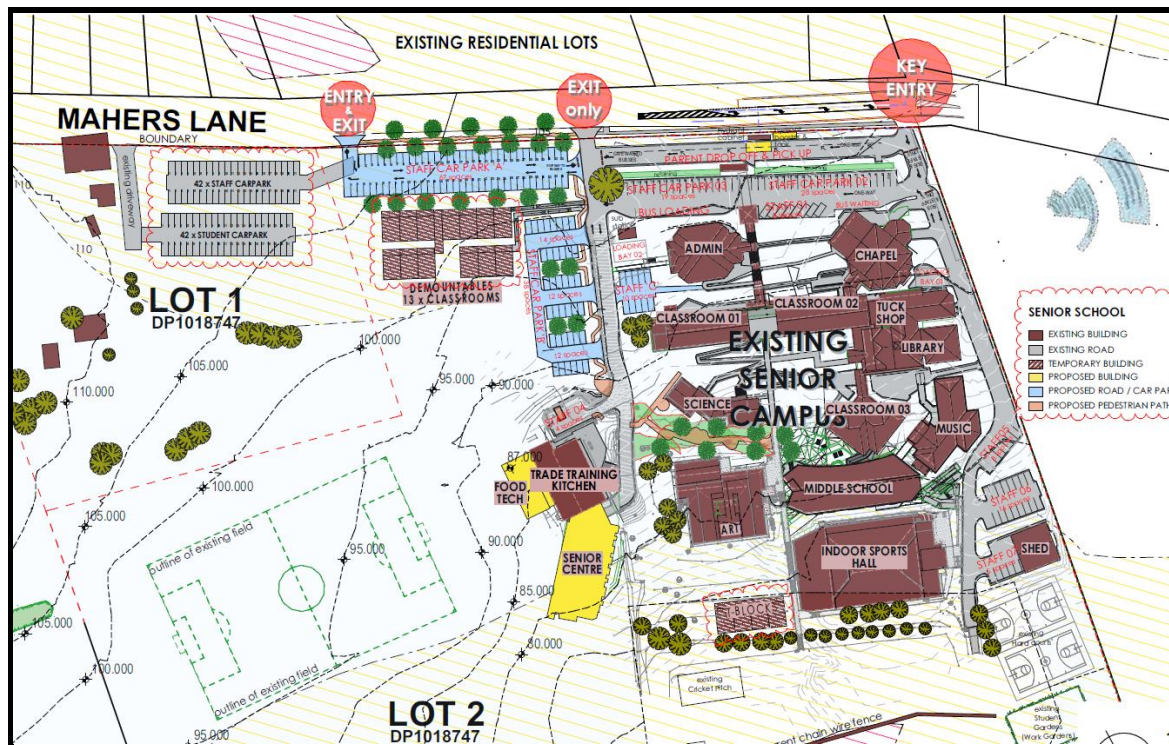


Figure 4: Proposed Development (Source: Raunik, May 2023)



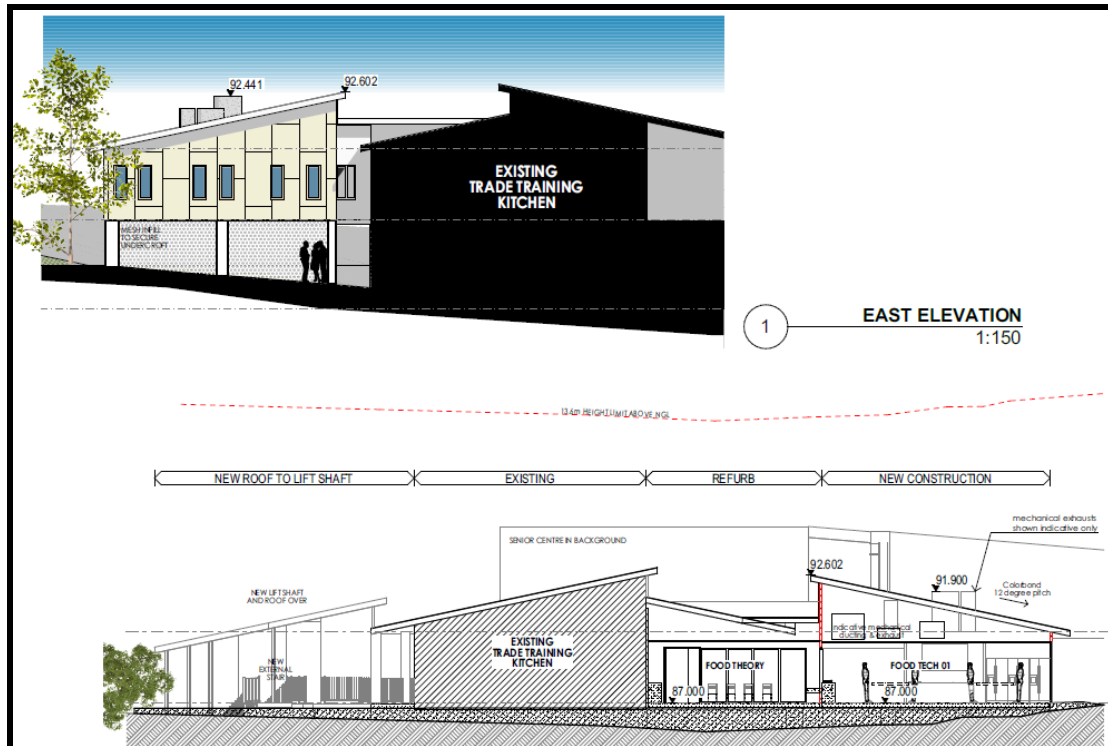


Figure 7: Proposed New Food technology Classrooms (Source: Raunik, March 2023)

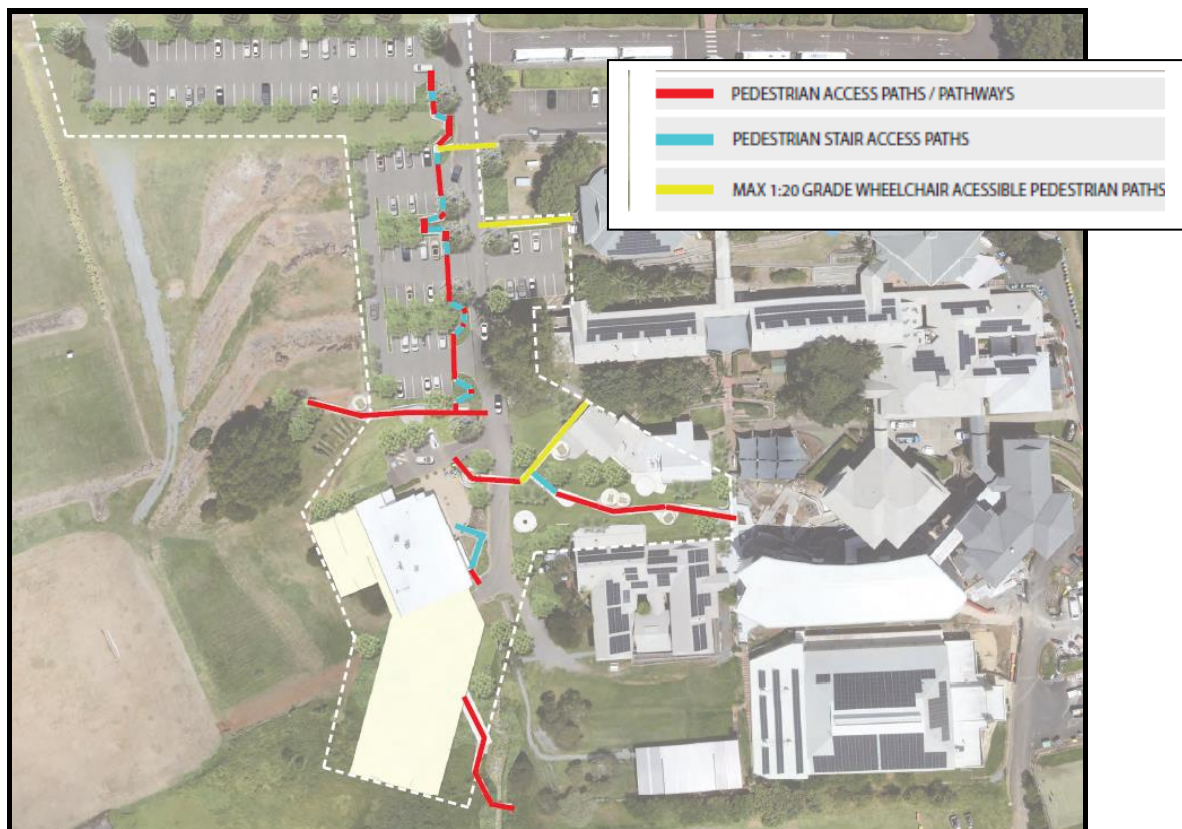


Figure 8: Proposed pedestrian paths (Source: Landscape Plans, Byrns Lardner, March 2022)

2.2 Background

The School provides education from pre-school through to Year 12 over the two school campuses (Mahers Lane & Sunshine Avenue). The Mahers Lane campus currently caters for the Year 5 to Year 12 cohorts with an enrolled students totalling 1,378 (the current number applied for). A separate campus caters for the younger students in Tweed Heads South. The school is a private entity, with a large catchment area for existing students, extending from Robina in the north, Hopkins Creek and Terragon to the west, and Pottsville to the south with some students travelling up to 40km to attend.

A similar development application (DA20/0203) was lodged with Council on 3 April 2020 for proposed alterations and additions to the school including an increase in student and staff numbers. This application was withdrawn on 6 August 2021 at Council's request due to the extensive time taken to respond to Council's RFI of 7 August 2020.

A pre-lodgement meeting for the current development application was held on 27 October 2021 with the Council, which included discussion on various matters including the zoning and likely CIV as well as whether the application will be integrated development and regionally significant development. Issues relating to potential impacts on the Koala, Aboriginal Cultural Heritage, tree removal and potential impacts on fire safety, sewer, water, noise and traffic of the increased student numbers were discussed. These matters have been addressed in the application.

The development application was lodged on 10 March 2022. A chronology of the development application since lodgement is outlined in **Table 2**, including the Panel's involvement with the application.

Table 2: Chronology of the DA

Date	Event
10 March 2022	DA lodged
2 April 2022	DA referred to external agencies
27 April 2022	Exhibition of the application (until 11 May)
20 September 2022	Panel briefing – key issues discussed included the site history and context, overview of proposal and the potential impacts arising from the proposal including the traffic impact, water provision for fire hydrants, removal of koala food tree and offsetting, proposed upgrades to Mahers Lane and the existing and future residential development in the surrounding area to the north and east identified in the DCP for Area - E. The Panel required a number of matters to be addressed which is outlined below.
3 November 2022	Request for Information ('RFI') from Council to applicant
21 February 2023	Site visit by the Panel noted: <ul style="list-style-type: none">• Stormwater and traffic issues still to be resolved• Existing student population already 1,300• Traffic and transport arrangements for staff and students, noting school has conducted student travel survey – based on existing (1300) population. Car parking on Mahers Lane• Pedestrian and cycle way opportunities and limitations given geography and existing width of Terranora Road leading to

	<p>Mahers Lane</p> <ul style="list-style-type: none"> • Potential future treatment of conservation area • No importation or export of fill, with earthworks to be managed from site • Hydrant pump station • Masterplan to be provided.
27 March 2023	<p>Amended and additional information lodged to address Council's RFI including:</p> <ul style="list-style-type: none"> • Revised architectural plans • Letter report from TTM (traffic) and an Operational Transport and Access Management Plan. • Habitat Restoration Plan to address removal of koala food tree. • Updated Arboricultural assessment and tree removal/protection plans. • Hydraulic report to address water flows for fire protection and capacity requirements for sewage pump station. • Updated Construction Noise Management Plan. • Updated Preliminary Site Investigation plan. • Updated Landscaping plans (80% local native species) • Updated engineering and landscaping plans (with pathways). • Response to matters raised by TfNSW. • Confirmation proposal is capable of compliance with Condition 4 from the RFS. • Sustainability credentials to address matters relating to water harvesting and energy generation. • Master plan for the Lindisfarne School land holding.
12 April 2023	<p>Letter from the Panel Chair stating that a determination briefing for the matter had been scheduled for the week of 24 May 2023, with Council's report due with the Panel no later than 10 May 2023.</p>
4 May 2023	<p>Site inspection by independent planning consultant.</p>

At the Panel briefing held in September 2022, the Panel requested the following information to be provided, which is considered in **Table 3**. The application has complied with these requirements.

Table 3: Panel's requests for Information (Source: Record of Briefing – 20 September 2022)

Panel Issue	Comment
If less than the necessary number of car parking spaces is proposed the application is to include measures to encourage reduced car usage by students and staff, possibly including a draft plan of management to control car use and provision of bike ways or similar	An Operational Transport and Access Management Plan ('OTAMP') prepared by TTM dated 4 May 2023 has been provided. The amount of car parking complies with the TDCP 2008.
Pedestrian safety and bus/car conflicts to be assessed, including	The OTAMP and the amended architectural plans address these matters.

compliance with relevant Australian Standards and the submission of a traffic plan of management	
Road widths noted as not being able to support bike/pathways (this is a potential problem)	<p>The potential for the provision of bike and pathways in the vicinity of the site is limited, given the existing road widths in the area. The undulating topography in the area and the large catchment area for the students attending the school, results in a low percentage of students who walk or cycle to school. The application includes extension of the footpath for the frontage of the site, which is included in the recommended conditions of consent.</p> <p>Internally within the site, separate pedestrian pathways are proposed throughout the site for access between the car parking areas and the school buildings. These paths are not located in the internal road corridor within the site.</p>
Renewable energy and water harvesting plans for the site to be outlined.	<p>A Sustainability report has been provided from the school, which outlines the following sustainability measures:</p> <ul style="list-style-type: none"> - use of solar panels - optimisation of air conditioning - automation technology to turn off all AV systems - building with good natural light and ventilation - rainwater captured for reuse - LED lighting - Native and endemic proposed plant species - Shade sails and shade trees to reduce reflected heat and heat loading –cooling microclimates - Promotion of recycling throughout the school <p>Use of Subpod (in-garden compost system) for organic waste</p>
Walkability and relationship to the surrounding neighbourhood to be considered	<p>The surrounding locality is undulating and comprises local roads which are winding and have narrow verges where footpaths are not provided. A footpath is to be provided along the frontage of the site as outlined in the recommended conditions of consent.</p>
Identification of yellow hatching area on proposed master plan to be provided	<p>These are the proposed new buildings and water pump along the front of the site.</p>
Masterplan for the site to be provided, outlining future proposals and relationship to the strategic direction for the area including the DCP.	<p>A masterplan outlining potential future upgrades to the school has been provided.</p>
Biodiversity outcomes and habitat restoration for the site to be reflected in the masterplan	<p>This has been provided in the Habitat Restoration Plan, which is considered in the key issues section of this report.</p>

Vegetation – further clarification required in relation to the proposed tree removal, tree retention management during construction and compensation measures	A revised Arborist's Report has been provided which addresses these matters, which is considered in the key issues section of this report.
Canopy trees recommended for car park landscaping	These have been included in the revised Landscape Plans.

2.3 Site History

There are a number of approvals relating to the development and expansion of the school on the site, which was established in 1994. A brief list of approvals related to the expansion of the school over time is outlined in **Table 4**.

Table 4: Consent History of the Site (Source: Council)

Application	Development	Date
D94/0141	Educational establishment	12/12/1994
D96/0277	Sporting fields comprising 5 multi-purpose courts and a running track	19/09/1996
D96/0278	Proposed Stages 2 to 7 of Lindisfarne High School	13/12/1996
K9906/83	Alterations and additions to an existing educational establishment (fit out of studio and backstage)	08/06/1999
K98/0295	Construction of a sporting centre and caretakers' residence	10/02/1999
K99/1171	Increase the student population by a further 300 students (564 to 864).	16/12/1999
1105/2001DA	Additions to an existing school	8/01/2002
DA04/1496	Enclosed awning addition	17/12/2004
CDC09/0110 (as amended)	Addition to existing resource centre, addition & refurbishment of existing PE building - Lindisfarne Anglican School (as amended)	21/09/2009
DA09/0338	Construction of school maintenance shed and includes school bus storage	Surrendered 31/08/2009
CDC13/0021	Alterations to ground floor area to lecture theatre	26/04/2013
CDC14/0113	Trade training centre	6/08/2014
CDC15/0184	Enclosure under existing building	19/10/2015
DA19/0506	Demolition works, tree removal and construction of new 3 - 4 storey school building at Lindisfarne Anglican School to accommodate existing approved	10/12/2019

	number of student enrolments (no increase in maximum student numbers)	
--	---	--

In addition to the above, there are other approvals for ancillary development including storage areas and shade structures.

In March 2023, 13 temporary demountable classrooms were installed adjacent to the parking area proposed as part of this application. The School has indicated that the installation of these classrooms is exempt development pursuant to the Transport and Infrastructure SEPP. This is a matter for Council and the owner of the site and does not form part of this development application (or assessment).

2.4 Future Development Plans

A master plan outlining the development plans for the school over the next 10 to 20 years was provided following a request from the Panel, which is illustrated in **Figure 9**. This outlines that the School proposed to expand along the Mahers Lane frontage, with the following proposed in this portion of the site:

- Junior school campus
- Child care centre
- Indoor sports centre
- 50 metre swimming pool complex
- Performance Hall adjoining proposed new car park (in current application)
- Staff accommodation along the southern boundary
- New vehicle entry and exit points to the site at the western end of the Mahers Lane frontage.

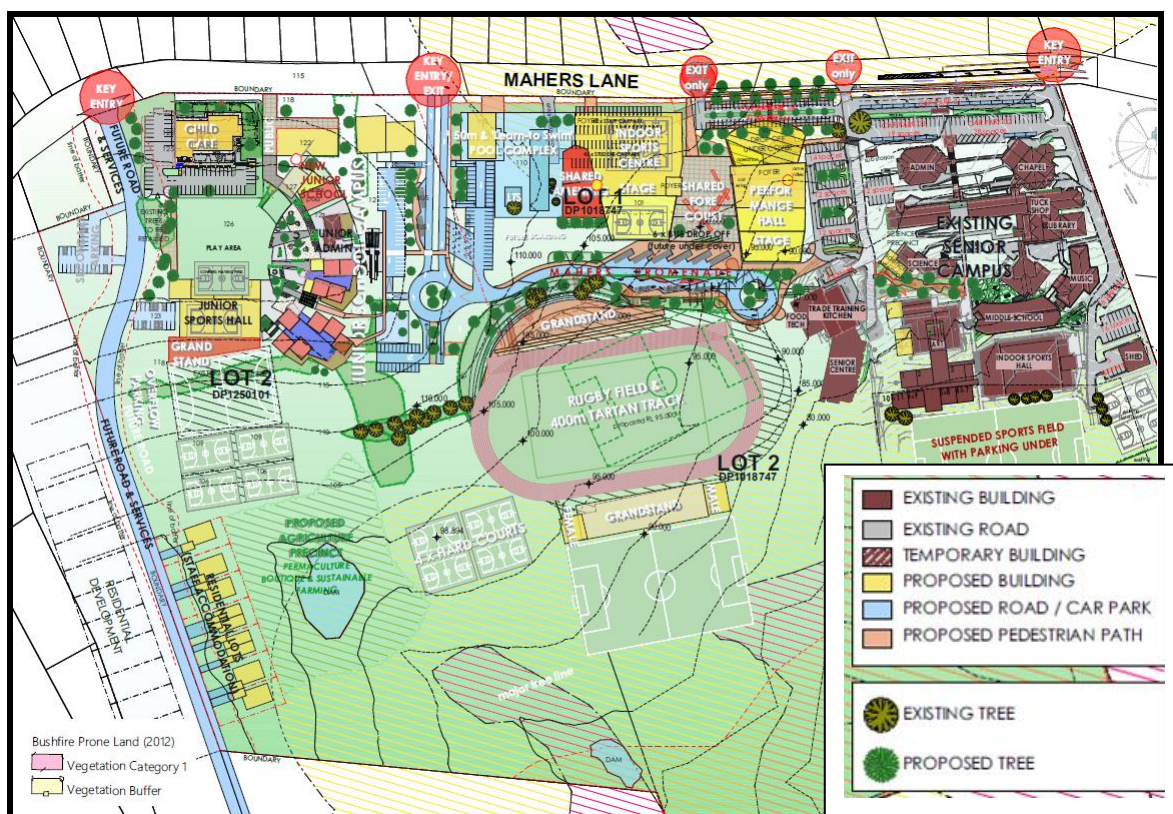


Figure 9: Proposed Masterplan for the School (Source: Raunik, March 2023)

3. STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

- (a) the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations
 - (i) any environmental planning instrument, and
 - (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 Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and
 - (iii) any development control plan, and
 - (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
 - (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,
- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

- (c) the suitability of the site for the development,
- (d) any submissions made in accordance with this Act or the regulations,
- (e) the public interest.

These matters are further considered below.

Integrated Development - Bushfire

The proposal is classified as a 'Special Fire Protection Purpose' development pursuant to Section 100B(6) of the *Rural Fires Act 1997* as it proposes a school and is located on bushfire prone land (**Figure 10**). The proposal is considered to be integrated development pursuant to Section 4.46(1) of the EP&A Act as it requires a Bushfire safety Authority from the NSW Rural Fire Service ('RFS').

Pursuant to Section 4.47(2) of the EP&A Act before granting development consent to an application for consent to carry out the development, the consent authority must, in accordance with the regulations, obtain from each relevant approval body the general terms of any approval proposed to be granted by the approval body in relation to the development. This has been provided from the NSW RFS and therefore this precondition to the grant of consent has been satisfied.

The bushfire threat to the proposed buildings is to the east comprising the rainforest/camphor (exotic) vegetation with a closed canopy. The *Bushfire Assessment Report* prepared by Bushfire Certifiers dated January 2022 concluded that subject to the recommendations of the Report, the proposal is consistent with the acceptable solutions of *Planning for Bushfire Protection 2019* including the provision of Asset Protection Zones ('APZs') (**Figure 11**), and that further details of compliance with the recommendations will be required with the application for a construction certificate and approved by an accredited building certifier.

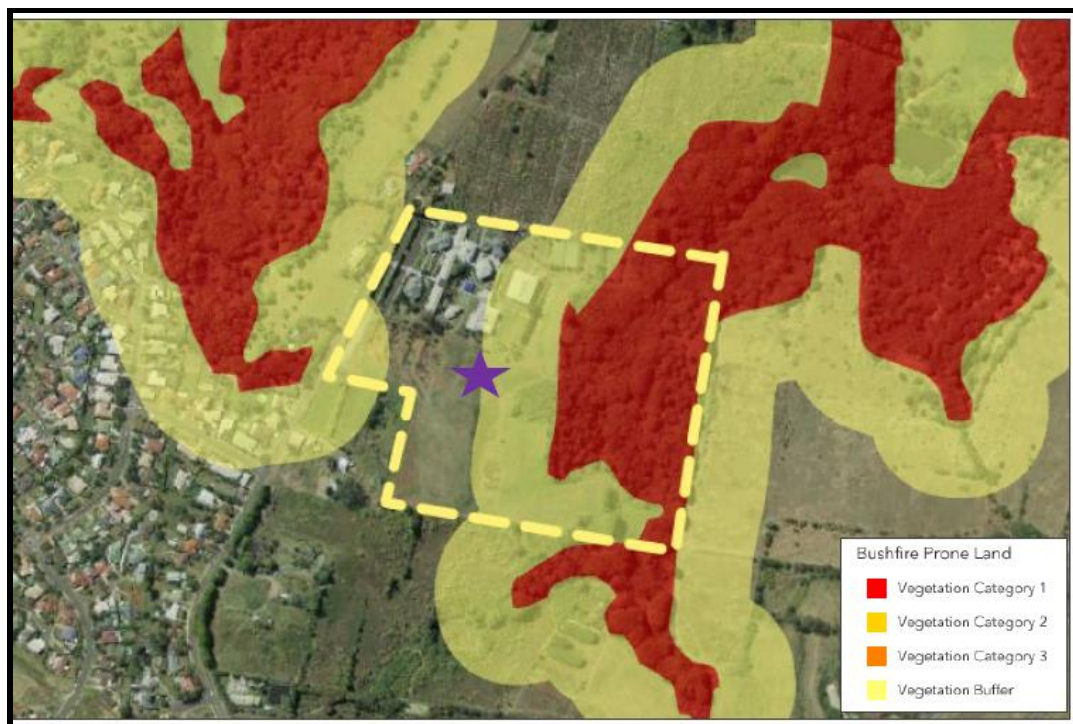


Figure 10: Bushfire Prone Land Map (Source: *Bushfire Report*, January 2022)

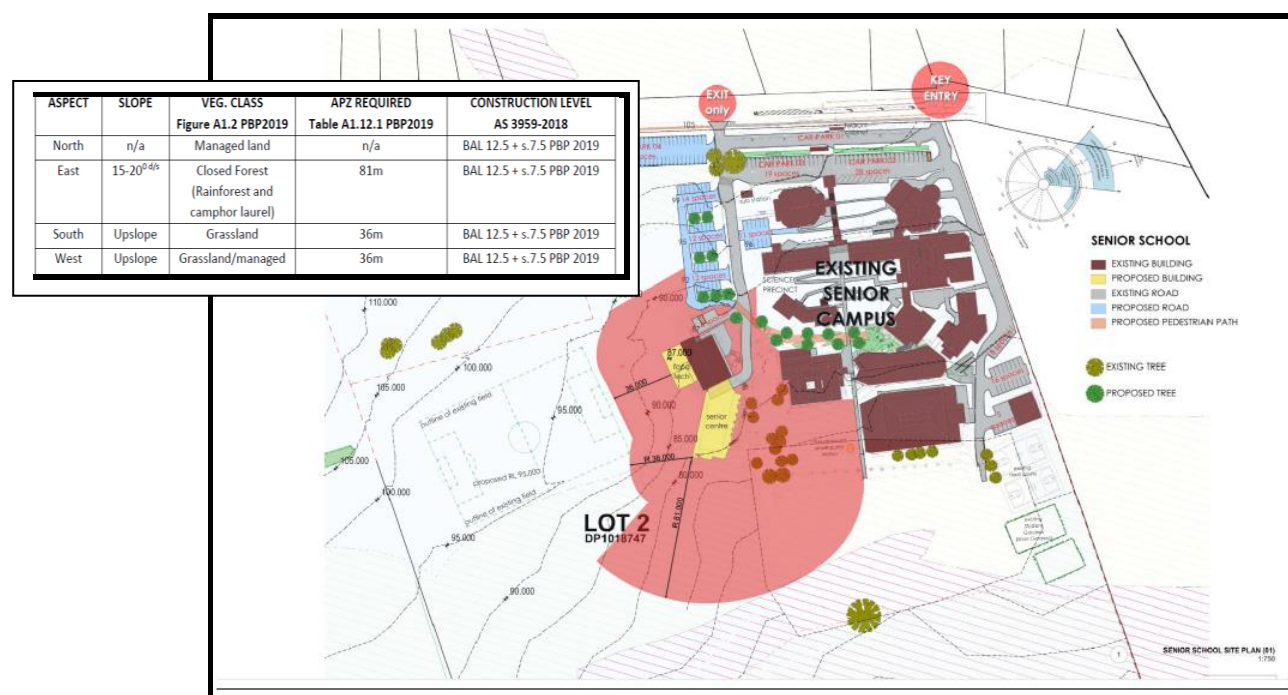


Figure 11: Recommended APZ (Source: Bushfire Assessment, January 2022)

The original application was referred to the RFS on 6 April 2022 and a Bushfire Safety Authority ('BFSA') has been provided dated 16 June 2022, subject to conditions which are included in the recommended conditions. One of the BFSA conditions was a requirement that a reticulated water supply and hydrants are to provide coverage of the proposed buildings in accordance with Table 6.8c PBP2019.

Written confirmation that this could be complied with from the bushfire consultant was requested in Council's RFI dated 3 November 2022. Confirmation from the Bushfire consultant was provided in this regard in correspondence dated 23 February 2023 stating that confirmation had been received from the Hydraulic Designer (Compass Consulting) that the final design certification will be capable of complying with this condition.

Following the lodgement of amended plans, consultation was undertaken with the RFS on 23 March 2023, to confirm where the amended plans were required to be referred back to the RFS. It was decided that since there were no changes to the proposed APZ and the proposed buildings are capable of complying with the APZ and other measures in the original BFSA, then there was no requirement for the amended plans to be referred.

The proposal is capable of complying with the original BFSA, with the BFSA conditions included in the recommended conditions of consent.

Biodiversity Conservation Act 2016

Council's Biodiversity Planner has considered the proposal in relation to the *Biodiversity Conservation Act 2016* ('the BC Act') and provided the following summary:

- The site is not identified as supporting high conservation value areas as mapped on the NSW Biodiversity Values Map under the BC Act.
- NSW Bionet search failed to return records of threatened entities listed under the BC Act known to occur onsite.
- No threatened flora, fauna or ecological communities were identified within the proposed development envelope (including asset protection zones, land application area, access roads, built form footprint).

- Council is satisfied that the development proposal is unlikely to significantly affect threatened species or ecological communities, or their habitats. On this basis, the Biodiversity Offsets Scheme threshold (Clause 7.2 of the *Biodiversity Conservation Regulation 2017*) is not considered to be exceeded and by virtue, a Biodiversity Development Assessment Report under Section 7.7 of the BC Act is not required.

Relevant biodiversity conditions are required to minimise biodiversity impact and are included in the recommended conditions. The potential impacts on the ecological values of the site is further considered in the key issues section of this report.

Water Management Act 2000

The proposal does not involve works within 40 metres of a waterway and therefore no controlled activity approval is required.

3.1 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

(a) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments and Development Control Plans are relevant to this application:

- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *Tweed Local Environmental Plan 2014;*
- *Tweed Local Environmental Plan 2000;*
- *Tweed Development Control Plan 2008.*

It is noted that *State Environmental Planning Policy (Industry and Employment) 2021* does not apply to the application as the applicant has advised that signage does not form part of the proposal. Accordingly, a condition requiring a further application being required if any signage is not exempt or complying development has been included in the recommended consent conditions.

A summary of the key matters for consideration arising from these Environmental Planning Instruments and Development Control Plans are outlined in **Table 5** and considered in more detail below. The jurisdictional preconditions to the grant of consent are in bold and have been satisfied.

Table 5: Summary of Applicable Environmental Planning Instruments

EPI	Matters for Consideration	Comply
State Environmental Planning Policy (Planning Systems) 2021	<u>Chapter 2: State and Regional Development</u> <ul style="list-style-type: none"> Section 2.19(1) declares the proposal regionally significant development - CI 5(b) of Schedule 6 	Yes
State Environmental Planning Policy (Biodiversity & Conservation) 2021	<u>Chapter 4: Koala Habitat Protection 2021</u> Note: A Preferred Koala Tree is proposed to be removed.	Yes
SEPP (Resilience & Hazards)	<u>Chapter 2: Coastal Management</u> <ul style="list-style-type: none"> Section 2.10(1) & (2) - Development on land within the coastal environment area <u>Chapter 4: Remediation of Land</u> <ul style="list-style-type: none"> Section 4.6(1) - Contamination of land 	Yes Yes
State Environmental Planning Policy (Transport and Infrastructure) 2021	<u>Chapter 2: Infrastructure</u> <ul style="list-style-type: none"> Section 2.48(2) (Determination of development applications—other development) – electricity transmission - the proposal is satisfactory subject to conditions. Section 2.121(4) - Traffic-generating development <u>Chapter 3: Educational Establishments</u> <ul style="list-style-type: none"> Section 3.36(1) - Schools—development permitted with consent Schedule 8 - Design quality principles in schools—Chapter 3 Section 3.58 – Traffic-generating development 	Yes Yes Yes Yes
Tweed Local Environment Plan 2014	Permissible with consent and generally consistent with the development standards and controls. Preconditions include which have been satisfied: <ul style="list-style-type: none"> Clause CI 6.2(1) - Public utility Infrastructure Clause CI 6.3(2) - DCP Clause CI 7.2(3) – Earthworks Clause CI 7.6(3) - Stormwater Management Clause 7.10 - Essential Services 	Yes
Tweed Local Environment Plan 2000	Permissible with consent and generally consistent with the development standards and controls.	Yes
Tweed Development Control Plan 2008	<ul style="list-style-type: none"> Section A2 – Site access and parking code Section A15 – Waste minimisation & management Section A16 - Preservation of trees or vegetation Section A19 – Biodiversity & habitat management Section B24 – Area E Urban Release Development Code 	Yes Yes Yes Yes Yes

(i) State Environmental Planning Policy (Planning Systems) 2021

The proposal is *regionally significant development* pursuant to Section 2.19(1) as it satisfies the criteria in Clause 5(b) of Schedule 6 of the Planning Systems SEPP as the proposal is

development for an educational establishment with a CIV of more than \$5 million. Accordingly, the Northern Regional Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

(ii) State Environmental Planning Policy (Biodiversity and Conservation) 2021

State Environmental Planning Policy (Biodiversity and Conservation) 2021 ('Biodiversity & Conservation SEPP') provides controls for various environmental issues, with Chapter 4 the only relevant chapter for the current application.

Chapter 4: Koala Habitat Protection 2021

This Chapter aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline. Pursuant to Section 4.4, the Policy applies to the site as the Tweed is listed in Schedule 2 and the relevant koala management area is North Coast.

Section 4.8 of the Policy applies to land to which this Chapter applies and to which an approved koala plan of management applies. In relation to the current application, the *Tweed Coast Comprehensive Koala Plan of Management 2020* ('TCCKPoM') applies and therefore Section 4.8 of the Policy is relevant to the current proposal. Pursuant to Section 4.8(2), the Council's determination of the development application must be consistent with the approved koala plan of management that applies to the land.

Council's Biodiversity Planner has considered the proposal having regard to the TCCKPoM and considers that the proposal conforms to the TCCKPoM. These matters are further considered in the key issues section of this report.

(iii) State Environmental Planning Policy (Resilience and Hazards) 2021

State Environmental Planning Policy (Resilience and Hazards) 2021 ('Resilience and Hazards SEPP') commenced on 1 March 2022 and provides controls relating to resilience and hazards matters, with Chapter 2 (Coastal Management) and Chapter 4 (remediation of land), are relevant to the proposal, which are considered below.

Chapter 2: Coastal Management

Chapter 2 aims to promote an integrated and coordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the *Coastal Management Act 2016*, including the management objectives for each coastal management area. The site is located within the Coastal Environment Area, however, is not indicated on the Coastal Wetlands Map or the Coastal Use Area map pursuant to Section 2.4. The relevant provisions of Chapter 2 are considered below.

Section 2.10: Development on land within the coastal environment area

Development consent **must not be granted** to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following (s2.10(1)):

- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment* – The proposal will not adversely impact on these values

given the proposal provides for offset planting in the eastern portion of the site. This matter is further considered in the key issues section of this report.

- (b) *coastal environmental values and natural coastal processes* – The proposal will not adversely impact on any natural coastal processes or the coastal environmental values given the distance from the site to the coast and the proposed stormwater and construction management measures which are proposed.
- (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1* – The proposal will not adversely impact on the water quality of the marine estate or a coastal lakes given the proposed stormwater and construction management measures are satisfactory.
- (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms* – There will be no significant impacts on these areas as outlined in the key issues section of this report.
- (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability* – The proposal will not adversely impact on any existing public open space or access to or along the foreshore.
- (f) *Aboriginal cultural heritage, practices and places* – The proposal will not adversely impact on Aboriginal cultural heritage, which is considered further in the key issues section of this report.
- (g) *the use of the surf zone* – The proposal will not adversely impact on the use of the surf zone given the distance of the beach from the site.

Development consent **must not be granted** to development on land to which this section applies unless the consent authority is satisfied that (s2.10(2)):

- (a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or*
- (b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
- (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

It is considered that the proposal has been designed, sited and will be managed to avoid an adverse impact as outlined above given the proposed offset planting proposed for the removal of the 8 trees from the site, including a preferred koala feed tree. The ecological issues are considered further in the key issues section of this report.

Therefore, the proposal is considered to be consistent with Chapter 2 of the Resilience and Hazards SEPP and the jurisdiction preconditions to the grant of consent have been satisfied.

Chapter 4: Remediation of Land

Chapter 4 aims to promote the remediation of contaminated land in order to reduce the risk of harm to human health or any other aspect of the environment. Section 4.6 requires contamination and remediation to be considered in determining a development application.

- (1) *A consent authority must not consent to the carrying out of any development on land unless—*
- (a) it has considered whether the land is contaminated, and*
 - (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
 - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

Comment: It is considered that the site is not contaminated, which is considered further below.

- (2) *Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subsection (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.*

Comment: A change of use is not proposed for the land (the school is proposed to be expanded), however, the site is considered to be 'land specified' in subclause (4) as it is proposed to be used for education purposes and there is a known history of horticultural use on the site. A Preliminary Investigation has been prepared for the site, which is considered further below.

- (3) *The applicant for development consent must carry out the investigation required by subsection (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.*

Comment: A Preliminary Investigation has been prepared for the site (considered further below), however given the conclusion of this preliminary investigation is that the site is not contaminated, a detailed investigation is not required.

- (4) *The land concerned is—*
- (a) land that is within an investigation area,*
 - (b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
 - (c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—*
 - land—*
 - (i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
 - (ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

Comment: The site is not within an investigation area, however, the site is to be used for educational purposes and a land use listed in Table 1 has been known to occur on the site. Therefore, a Preliminary Investigation has been undertaken which is considered further below.

A *Preliminary Site Contamination Assessment* prepared by Tim Fitzroy & Associates dated 12 November 2022 ('PSI') has been undertaken on the site, which included a review of the site history and a soil sampling program in the areas proposed for development on the site. The PSI has been undertaken to determine if land contamination has occurred from historical and current land use activities occurring on site or immediately nearby and to determine if the site poses a significant risk of harm to end users (and nearby sensitive receptors).

The PSI concluded:

- Based on the site history of herbicide application and commercial cropping, the site would have been subject to insecticide and pesticide application as well as inorganic fertilisers. In addition, the existing unsealed carpark adjacent to Mahers Lane may have been subject to oils and fuel spillages overtime from vehicles parking onsite. Therefore, the potentially contaminating activities were identified as:
 - Unknown pesticide, fertiliser and herbicide use associated with former land uses including agricultural and horticulture.
 - BTEXN, Hydrocarbons, PAHs associated with the existing car park.
- All of the soil samples show contaminant levels well below the relevant Australian and New Zealand Environment and Conservation Council (ANZECC), National Environment Protection Measure (NEPM 2013) HILA Residential with garden/accessible soil also includes children's day care centres, preschools and primary schools and Ecological Soil Investigation Levels and Ecological Screening Levels (HSL's) (NEPM 2013).
- Based on the extensive site history, site inspection and the laboratory results from soil sampling; there is a low level of risk that the proposed development envelope is contaminated with residual chemicals from activities associated with current or past land use.
- There is no impediment to consent being issued for the proposed Senior Centre & Food Technology and car parking areas.

Following a review of the PSI, it is considered that the site is unlikely to be contaminated and the application has adequately addressed Section 4.6 of the Resilience and Hazards SEPP subject to standard conditions of consent relating to unexpected contamination discovered during construction. It is considered that the jurisdiction preconditions to the grant of consent have been satisfied.

The proposal is considered to be consistent with Chapters 2 and 4 of the Resilience and Hazards SEPP.

(iv) State Environmental Planning Policy (Transport and Infrastructure) 2021

State Environmental Planning Policy (Transport and Infrastructure) 2021 ('Transport & Infrastructure SEPP') outlines the controls for the provision of infrastructure and schools, among other matters. Chapter 2 (Infrastructure) and Chapter 3 (Educational Establishments) are relevant to the development application.

Chapter 2: Infrastructure

The following provisions of Chapter 2 are relevant to the development application:

- *Section 2.48 – Determination of development applications – other development* - This section applies to a development application involving development carried out immediately adjacent to an easement for electricity purposes, the site contains a substation and there is land within 5 metres of an exposed overhead electricity power line (among other matters) pursuant to Section 2.48(1)(b)(i), (ii) and (iii). An overhead electricity power line is located in the road reserve of Mahers Lane and there is an underground electricity easement along the north-eastern site boundary.

Pursuant to Section 2.48(2), the Council consulted with Essential Energy, the electricity supply authority, where no objections were raised subject to recommended standard conditions of consent. The proposal is consistent with this clause.

- *Section 2.119 - Development with frontage to classified road & Section 2.120 – Impact of road noise or vibration on non-road development* - Mahers Lane is not a classified road and is also not included in the “mandatory” or “recommended” category for a road noise or vibration assessment. Accordingly, these controls are not relevant to this proposal.
- *Section 2.122 – Traffic-generating development* - This section requires consideration of certain matters relating to development which is deemed to be traffic-generating. In this case, the proposal involves more than 200 car parking spaces in total, with access to a road. Therefore, the proposal achieves the criteria as listed in Column 2. Accordingly, a referral to TfNSW is required under this Section.

Section 2.122(4) requires that before determining a development application for development to which this section applies, the consent authority must—

- (a) *give written notice of the application to TfNSW within 7 days after the application is made, and*

Comment: The application was referred to TfNSW.

- (b) *take into consideration—*
 - (i) *any submission that RMS provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, TfNSW advises that it will not be making a submission), and*

Comment: The comments from TfNSW are considered in the key issues section of this report.

- (ii) *the accessibility of the site concerned, including—*
 - (A) *the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
 - (B) *the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*

Comment: These matters are considered in the key issues section of this report.

- (iii) *any potential traffic safety, road congestion or parking implications of the development.*

Comment: These matters are considered in the key issues section of this report.

The matters raised by TfNSW have been considered and form relevant consent conditions.

Chapter 3: Educational establishments and child care facilities

Chapter 3 aims to facilitate the effective delivery of educational establishments and early education and care facilities across the State. For the development application, Part 3.4: Schools – specific development controls, is relevant and is considered below.

Section 3.36(1) provides that development for the purpose of a school may be carried out by any person with development consent on land in a prescribed zone, which includes the Zone R1 General Residential, pursuant to Section 3.34(1)(e).

Pursuant to Section 3.36(6), before determining a development application for development of a kind referred to in subsection (1), the consent authority must take into consideration—

- (a) *the design quality of the development when evaluated in accordance with the design quality principles set out in Schedule 8, and*
- (b) *whether the development enables the use of school facilities (including recreational facilities) to be shared with the community.*

In relation to whether the school facilities will enable use by the community, the school has not indicated that the community will share their facilities and therefore it is considered that only the school will use the facilities of the school.

The design quality principles are considered in **Table 6**. The proposed development is consistent with these principles.

Table 6: Design Quality Principles - Schools

DESIGN PRINCIPLE	REQUIREMENT	PROPOSAL	COMPLY
Principle 1— context, built form and landscape	<p>Designed to respond to and enhance the positive qualities of their setting, landscape and heritage, including Aboriginal cultural heritage. The design and spatial organisation of buildings and the spaces between them should be informed by site conditions such as topography, orientation and climate.</p> <p>Landscape should be integrated into the design of school developments to enhance on-site amenity, contribute to the streetscape and mitigate negative impacts on neighbouring sites.</p> <p>School buildings and their grounds on land that is identified in or under a local environmental plan as a scenic protection area should be designed to recognise and protect the special visual qualities and natural</p>	<p>The proposed new buildings are integrated into the site to ensure there are minimal disruptions to the natural environment and is a logical extension of the school buildings.</p> <p>The proposed landscaping provides for 80% native species and allows for shade trees in the proposed car parking areas. The proposed landscaping assists in integrating the new buildings into the site.</p> <p>The site is not in a scenic protection area, however, the visual amenity of</p>	Yes

	environment of the area, and located and designed to minimise the development's visual impact on those qualities and that natural environment.	nearby land is not adversely impacted by the proposal given the proposed new buildings are of a satisfactory size and scale for the site.	
Principle 2—sustainable, efficient and durable	<p>Good design combines positive environmental, social and economic outcomes. Schools and school buildings should be designed to minimise the consumption of energy, water and natural resources and reduce waste and encourage recycling.</p> <p>Schools should be designed to be durable, resilient and adaptable, enabling them to evolve over time to meet future requirements.</p>	<p>The proposed sustainability measures for the proposed development include the following and are satisfactory:</p> <ul style="list-style-type: none"> - use of solar panels - optimisation of air conditioning - automation technology to turn off all AV systems - building with good natural light and ventilation - rainwater captured for reuse - LED lighting - Native and endemic proposed plant species - Shade sails and shade trees to reduce reflected heat and heat loading –cooling microclimates - Promotion of recycling throughout the school - Use of Subpod (in-garden compost system) for organic waste 	Yes
Principle 3—accessible and inclusive	<p>School buildings and their grounds should provide good wayfinding and be welcoming, accessible and inclusive to people with differing needs and capabilities.</p> <p>Schools should actively seek opportunities for their facilities to be shared with the community and cater for activities outside of school hours.</p>	The proposed development provides for pedestrian paths and accessible ramps for use by students and staff to ensure walking through the site is separate from the car parking and road areas.	Yes
Principle 4—health and safety	Good school development optimises health, safety and security within its boundaries and the surrounding public domain, and balances this with the need to create a welcoming and accessible environment.	The proposal provides for adequate safety for students, with the administration located at the front of the site and the building are maintained in a safe and healthy way.	Yes

Principle 5—amenity	<p>Schools should provide pleasant and engaging spaces that are accessible for a wide range of educational, informal and community activities, while also considering the amenity of adjacent development and the local neighbourhood.</p> <p>Schools located near busy roads or near rail corridors should incorporate appropriate noise mitigation measures to ensure a high level of amenity for occupants.</p> <p>Schools should include appropriate, efficient, stage and age appropriate indoor and outdoor learning and play spaces, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage and service areas.</p>	<p>The proposed school additions provide for improved facilities and amenity for senior students as well as students who undertake learning in the food technology classrooms.</p> <p>The proposal also provides for improved landscaping and pedestrian access ways to keep students and staff safe while traversing the site.</p> <p>Large areas of open space are retained on the site for student enjoyment and physical activity.</p>	Yes
Principle 6—whole of life, flexible and adaptive	<p>School design should consider future needs and take a whole-of-life-cycle approach underpinned by site wide strategic and spatial planning. Good design for schools should deliver high environmental performance, ease of adaptation and maximise multi-use facilities.</p>	<p>The proposal has been designed around potential future improvements at the site and provides significant sustainability measures on the site. The seniors centre building provides flexible learning spaces which can be used for a variety of purposes.</p>	Yes
Principle 7— aesthetics	<p>School buildings and their landscape setting should be aesthetically pleasing by achieving a built form that has good proportions and a balanced composition of elements. Schools should respond to positive elements from the site and surrounding neighbourhood and have a positive impact on the quality and character of a neighbourhood.</p> <p>The built form should respond to the existing or desired future context, particularly, positive elements from the site and surrounding neighbourhood, and have a positive impact on the quality and sense of identity of the neighbourhood.</p>	<p>The proposal includes significant landscaping, which provides for aesthetically pleasing areas while the proposed new buildings have been designed to be an attractive addition to the school.</p>	Yes

Section 3.58(1) applies to the proposal for traffic generating development as the development involves an increase of more than 50 students and an enlargement or extension to the existing premises which has direct vehicular or pedestrian access to any road is proposed. Before determining a development application for development to which this section applies, the consent authority must (S 3.58(2)):

- (a) *give written notice of the application to Transport for NSW (TfNSW) within 7 days after the application is made, and*
- (b) *take into consideration the matters referred to in subsection (3).*

Pursuant to Section 3.58(3), the consent authority must take into consideration—

- (a) *any submission that TfNSW provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, TfNSW advises that it will not be making a submission), and*
- (b) *the accessibility of the site concerned, including—*
 - (i) *the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
 - (ii) *the potential to minimise the need for travel by car, and*
- (c) *any potential traffic safety, road congestion or parking implications of the development.*

These matters are considered in the key issues section of this report and have been adequately addressed subject to the recommended consent conditions.

Accordingly, the proposal is considered to be consistent with the Transport & Infrastructure SEPP and satisfies the matters requiring consideration prior to determining a development application.

(v) Tweed Local Environmental Plan 2014

The relevant local environmental plan applying to the site is the *Tweed Local Environmental Plan 2014* ('TLEP 2014'). The particular aims of the LEP pursuant to Clause 1.2(2) which are relevant to the proposal include:

- (a) *to give effect to the desired outcomes, strategic principles, policies and actions contained in the Council's adopted strategic planning documents, including, but not limited to, consistency with local indigenous cultural values, and the national and international significance of the Tweed Caldera,*
- (b) *....*
- (c) *to promote the responsible sustainable management and conservation of Tweed's natural and environmentally sensitive areas and waterways, visual amenity and scenic routes, built environment, and cultural heritage,*
- (d) *to promote development that is consistent with the principles of ecologically sustainable development and to implement appropriate action on climate change,*
- (e) *to promote building design which considers food security, water conservation, energy efficiency and waste reduction,*
- (f) *...*
- (g) *to conserve or enhance the biological diversity, scenic quality and geological and ecological integrity of Tweed,*
- (h) *....*
- (i) *to conserve or enhance areas of defined high ecological value,*
- (j) *to provide special protection and suitable habitat for the recovery of the Tweed coastal Koala.*

The proposal is consistent with these aims as the proposal is generally consistent with the planning controls and provides the following outcomes:

- the proposal does not adversely impact on any Aboriginal cultural items;
- the proposal does not result in any significant adverse impacts on the natural environment given earthworks are confined to the proposed building footprints and compensatory planting is provided for the removal of trees and vegetation;

- compensatory koala habitat feed trees are provided for the loss of such a tree in the building footprint;
- the proposal provides a habitat restoration plan for the removal of the koala feed tree within the proposed building footprint.

These issues are considered in detail in the Key Issues section of this report.

Zoning and Permissibility (Part 2)

The site is located within the R1 General Residential zone pursuant to Clause 2.2 of the TLEP 2014 (**Figure 12**). The eastern portion of the site is within the DM area, a deferred matter, and therefore the TLEP 2014 does not apply to that portion of the site pursuant to Clause 1.3(1A). The DM land is land under the *Tweed Local Environmental Plan 2000* (refer below).

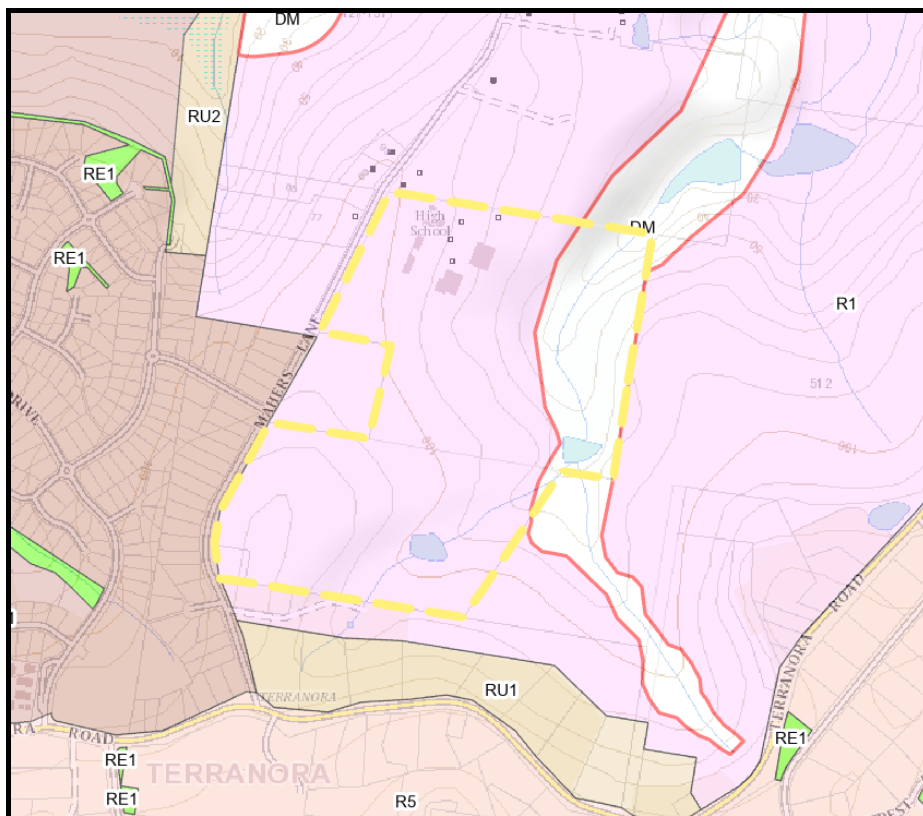


Figure 12: Zoning Map (Source: e planning Spatial Viewer)

According to the definitions in Clause 1.4 (contained in the Dictionary), the proposal satisfies the definition of a *school*, which are a type of **educational establishment**, and which is a permissible use with consent in the Land Use Table in Clause 2.3 as '*Any other development not specified in item 2 or 4*'.

The proposal is also permissible pursuant to Section 3.36(1) of the Transport & Infrastructure SEPP which provides that development for the purpose of a school may be carried out by any person with development consent on land in a prescribed zone, which includes the Zone R1 General Residential.

The zone objectives include the following (pursuant to the Land Use Table in Clause 2.3):

- *To provide for the housing needs of the community.*

- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To encourage the provision of tourist accommodation and related facilities and services in association with residential development where it is unlikely to significantly impact on amenity or place demands on services beyond the level reasonably required for residential use.

The proposal is considered to be consistent with these zone objectives as it provides for other land uses that provides a service to meet the day to day needs of residents in that the existing school will be enhanced with the proposed works. The proposal allows for more specialist classrooms as well as an area for seniors students to undertake their final year of schooling as well as prepare for the future in the careers area and the like. Therefore, the proposal is considered to be consistent with Clause 2.3(2) of the TLEP 2014 in that the consent authority has had regard for the objectives of the zone when determining a development application.

General Controls and Development Standards (Part 2, 4, 5 and 6)

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in **Table 7** below. It is noted that the following provisions do not apply to the proposal:

- CI 2.5: Additional permitted uses for particular land - not listed in Schedule 1;
- CI 2.6: Subdivision – not proposed
- CI 2.7: Demolition requires development consent – minor demolition to connect gym extension to existing building is proposed.
- CI 4.1: Minimum subdivision lot size – no subdivision proposed;
- CI 5.1: Relevant acquisition authority - the site is not indicated for land acquisition;
- CI 5.4: Miscellaneous permissible uses – none proposed;
- CI 5.21: Flood Planning & CI 7.4: Floodplain risk management– the site is not in the flood planning area;
- CI 7.5: Coastal risk planning – not located in this area;
- CI 7.7: Drinking water catchments – not located in this area;
- CI 7.9: Aircraft noise – the site is not affected.

Table 7: Consideration of the TLEP 2014 Controls

Control	Requirement	Proposal	Comply
Part 4: Principal development standards			
Height of buildings (CI 4.3(2))	13.6 metres	12.727m (RL 94.734) adjoining outdoor terrace/gym	Yes
FSR (CI 4.4(2))	2:1 (320,000m ²)	0.086:1	Yes
Part 5: Miscellaneous provisions			
Heritage (CI 5.10)	Consideration of potential impacts to heritage	There are no heritage items located on the site, on adjoining sites or in the vicinity of the site. Aboriginal cultural heritage is	Yes

		considered in the key issues section.	
Part 6: Urban release areas			
Public utility Infrastructure (CI 6.2(1))	Public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required.	The infrastructure which is essential for the proposed development, including electricity, telecommunications, water and sewerage, is available at the site.	Yes
DCP (CI 6.3(2))	Development consent must not be granted for development on land in an urban release area unless a development control plan that provides for the matters specified in subclause (3) has been prepared for the land.	Section B24: Area E has been prepared, which includes the site and which covers the matters required by Clause 6.3(3) of the TLEP 2014. The expansion of the school is in accordance with the provisions of the DCP as outlined in the DCP assessment.	Yes
Part 7: Additional local provisions			
Acid sulphate soils (CI 7.1(1))	<p>Consent is required for the carrying out of works described in the table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.</p> <p>Class 5 - Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.</p>	The site is affected by Class 5 acid sulphate soils, however, it is not located within 500m of adjacent Class 1,2 3 or 4 land and is not land below RL 5 (being at RL 84.53). The proposal does involve earthworks below the natural ground surface, however, groundwater was not encountered in the preparation of the geotechnical report. Accordingly, consent is not required for the works under this clause.	Yes
Earthworks (CI 7.2(3))	Consideration of matters prior to granting consent.	Satisfactory – considered in the key issues section.	Yes

Stormwater Management (CI 7.6(3))	Consideration of matters prior to granting consent.	Satisfactory – considered in the key issues section.	Yes
Airspace operations (CI 7.8)	Development which penetrates the Limitation or Operations Surface, consultation with the relevant Commonwealth body about the application must be made prior to granting consent.	The site is within the Obstacle Limitation Surface (Outer Horizontal Surface) for the Gold Coast Airport (GCA), however, the proposed development will not penetrate this surface.	Yes
Essential Services (CI 7.10)	Services that are essential for the development are available or that adequate arrangements have been made to make them available when required.	Satisfactory – considered in the key issues section.	Yes

The proposal is considered to be generally consistent with the TLEP 2014.

(vi) Tweed Local Environmental Plan 2000

The site contains land, which is deferred under the TLEP 2014, where the *Tweed Local Environmental Plan 2000* ('TLEP 2000') applies. The eastern section of the site is within the 7(d) Environmental Protection (Scenic/Escarpment) zone ('the 7(d) land') pursuant to Clause 11 of the TLEP 2000 (**Figure 13**). The proposed restoration works under the HRP are the only works proposed on the 7(d) portion of the site. The zone has the following objectives:

Primary objectives

- *to protect and enhance those areas of particular scenic value to the area of Tweed, minimise soil erosion from escarpment areas, prevent development in geologically hazardous areas, and maintain the visual amenity of prominent ridgelines and areas.*

Secondary objective

- *To allow other development that is compatible with the primary function of the zone.*

The proposal is consistent with these objectives given only the restoration works are proposed in the 7(d) land. The proposed stormwater management arrangements, located outside the 7(d) land, ensure that only stormwater which achieves the required water quality objectives will be entering the 7(d) land and the watercourse to the east of the proposed building footprint. *Noxious weed control that is not exempt development* is permissible in the zone with consent, with no other works proposed in this area of the site. The proposal is therefore permissible in the 7(d) land.

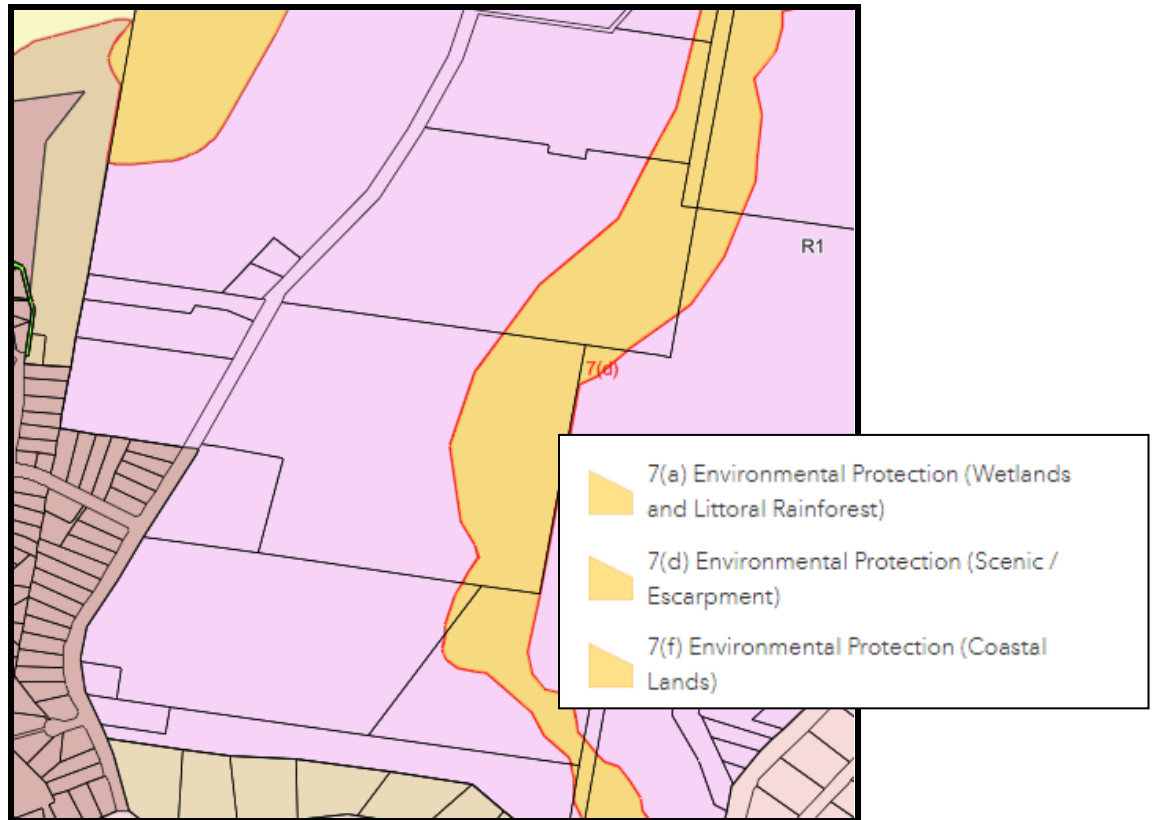


Figure 13: Zoning Map for deferred land (Source: Council's mapping system)

The aims of the TELP 2000 relevant to the proposal include:

- (a) *to give effect to the desired outcomes, strategic principles, policies and actions of the Tweed Shire 2000+ Strategic Plan, which was adopted, after extensive community consultation, by the Council on 17 December 1996, the vision of which is— “The management of growth so that the unique natural and developed character of the Tweed Shire is retained, and its economic vitality, ecological integrity and cultural fabric is enhanced”, and*
- (b) *to*
- (c) *to give effect to and provide reference to the following strategies and policies adopted by the Council Tweed Shire 2000+ Strategy Pottsville Village Strategy, and*
- (d) *to encourage sustainable economic development of the area of Tweed compatible with the area's environmental and residential amenity qualities,*

The proposal is considered to be generally consistent with these objectives.

The relevant controls of TLEP 2000 to the proposal are considered in **Table 8**.

Table 8: Consideration of the TLEP 2000 Controls

Control	Requirement	Proposal	Comply
CI 5 Ecologically sustainable development	To be consistent with principles of ecologically sustainable development	Generally consistent	Yes
CI 6 – Consent Authority	Council is the consent authority under this clause, however, given the application is now considered to be <i>regionally significant development</i> , the Panel is the consent authority.	Noted	Yes
CI 8 – Consent considerations	1) The consent authority may grant consent to development (other than development specified in Item 3 of the Table to clause 11) only if—	Only the habitat restoration works are proposed in the 7(d) portion of the site.	
	a) it is satisfied that the development is consistent with the primary objective of the zone within which it is located, and	The proposed works are consistent with the zone objectives as outlined above.	Yes
	b) it has considered those other aims and objectives of this plan that are relevant to the development, and	Complies – refer above.	Yes
	c) it is satisfied that the development would not have an unacceptable cumulative impact on the community, locality or catchment that will be affected by its being carried out or on the area of Tweed as a whole.	There will be no unacceptable cumulative impact of the proposed restoration works in the 7(d) zone.	Yes
	2) The consent authority may grant consent to development specified in Item 3 of the Table to clause 11 only if the applicant demonstrates to the satisfaction of the consent authority that—	The proposed restoration works are being carried out in the 7(d) zone to compensate for the removal of a koala feed tree within the development footprint. This is the only part of the site which can accommodate this part of the proposal as it is a naturally vegetated area which can assist with koala habitat in the area.	Yes
	a) the development is necessary for any one of the following reasons—		
	(i) it needs to be in the locality in which it is proposed to be carried out due to the nature, function or service catchment of the development,		
	(ii) it meets an identified urgent community need,		
	(iii) it comprises a major employment generator, and		
	b) there is no other appropriate site on which the development is permitted with consent development in reasonable proximity, and		

	<p>c) the development will be generally consistent with the scale and character of existing and future lawful development in the immediate area, and</p> <p>d) the development would be consistent with the aims of this plan and at least one of the objectives of the zone within which it is proposed to be located.</p>		
CI 15 (2) – Availability of essential services	Consent must not be granted to the carrying out of development on any land unless— (a) a water supply and facilities for the removal or disposal of sewage and drainage are available for that land, or (b) arrangements satisfactory to the consent authority have been made for the provision of that supply and those facilities.	The required services are available on the site; however, no building works are proposed in the 7(d) portion of the site.	Yes
CI 16(2) Height of Buildings	Consent must not be granted to the erection of a building which exceeds the maximum height or number of storeys indicated on the Height of Buildings map in respect of the land to which the application relates.	There is no building works proposed in the 7(d) portion of the site.	N/A
CI 17 – Social impact assessment	Social or economic impact to be considered.	There is no development proposed in the 7(d) portion of the site.	N/A
CI 26 - Development in Zone 7 (d) Environmental Protection (Scenic/Escarpment)	<p>1) Objective</p> <ul style="list-style-type: none"> to ensure that the development of land within Zone 7(d) minimises soil erosion and will preserve or enhance the scenic quality of the land and the locality. 	There is no building works proposed in the 7(d) portion of the site. The proposed HRP works are to be partially carried out in this zone and is consistent with this control.	Yes
	2) Unless it is exempt development, a person must not clear vegetation from, excavate or erect a building on land within Zone 7 (d) except with development consent.	Some minor clearing of weed species is proposed in the HRP, partially to occur within this land, which is considered satisfactory. There is no other vegetation clearing proposed in the 7(d) zone.	Yes
	3) Consent must not be granted to the erection of a building on land within Zone	There are no buildings proposed in the 7(d) zone.	Yes

	<p>7 (d) unless the consent authority is satisfied that—</p> <p>(a) the scale, height and location of the building, and</p> <p>(b) the colour, type and reflectivity of materials to be used,</p> <p>will preserve or enhance the scenic quality of the land and the locality.</p>		
CI 53D(3) Specific provisions for Terranora Urban Release Area E	<p>The consent authority must not consent to development on land to which this clause applies unless it is satisfied that—</p> <p>(a) a development control plan has been prepared for the land, and</p> <p>(b) any contaminated land has been identified to the extent necessary to allow for the appropriate location of sensitive land uses, and</p> <p>(c) any wetland on the land will be restored and managed to the consent authority's satisfaction to restore freshwater wetland values and minimise breeding habitat for saltwater mosquitoes and biting midges, and</p> <p>(d) the development will generally comply with the <i>Tweed Urban Stormwater Quality Management Plan</i> as adopted by the Council on 19 April 2000.</p>	<p>A DCP has been prepared for the site. Potential land contamination has been considered and has been adequately addressed. There are no wetlands on the site.</p> <p>Council's engineers have considered the proposal satisfactory subject to conditions which have been included in the recommended conditions.</p>	Yes
CI 54(4) – Tree Preservation Order	Any consent required by such an order is taken to be required by this clause.	The proposed tree removal (noxious weeds for the HRP) is permissible with consent in the 7(d) land.	Yes

(b) Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments

There are several proposed instruments which have been the subject of public consultation under the EP&A Act, and are relevant to the proposal, including the following:

- *Draft Remediation of Land SEPP*
- *Draft SEPP (Environment)*

These proposed instruments are considered below:

Draft Environment SEPP

The Draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018. This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland and Willandra Lakes World Heritage Property.

Changes proposed include consolidating seven existing SEPPs. The proposal is consistent with the provisions of this Draft Instrument.

Draft Remediation of Land SEPP

The Draft Remediation of Land SEPP was exhibited from 31 January 2018 to 13 April 2018. The proposed remediation of land SEPP will:

- Provide a state-wide planning framework for the remediation of land;
- Maintain the objectives and reinforce those aspects of the existing framework that have worked well;
- Require planning authorities to consider the potential for land to be contaminated when determining development applications and rezoning land;
- Clearly list the remediation works that require development consent;
- Introduce certification and operational requirements for remediation works that can be undertaken without development consent.

The proposal is consistent with these requirements as outlined in the assessment under the Resilience & Hazards SEPP.

The proposal is generally consistent with these proposed instruments.

(c) Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

The *Tweed Development Control Plan 2008* ('TDCP 2008') is relevant to this application, which aims to provide design issues, performance criteria and standards for development both on a shire wide basis and those that relate specifically to particular development areas. Part A of the DCP contains development standards for the whole of the Shire, while Part B provides development standards for specific sites.

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

- Section A2: Site Access and Parking Code
- Section A15: Waste Minimisation and Management
- Section A16: Preservation of Trees or Vegetation
- Section A19: Biodiversity and Habitat Management
- Section B24: Area E Urban Release Development Code

These controls are considered below.

Section A2 - Site Access and Parking Code

Section A2 provides design principles and a schedule for access and parking demands for developments. The proposal is generally consistent with the requirements of Section A2 of the TDCP 2008 as outlined in **Table 9**. The traffic, car parking and access arrangements for the proposal are considered in further detail in the key issues section of this report.

Table 9: Consideration of Section A2 of TDCP 2008

CONTROL	REQUIREMENT	PROPOSAL	COMPLY
A2.2 Design Principles			
A2.2.2 Public Transport, Pedestrian and Cyclist Access and Amenity	C1 access and parking treatments pursued to optimise pedestrian, cyclist, public transport and disabled person's access to and within the site.	Adequate facilities are provided within the site.	Yes
A2.2.3 Vehicle Access and Parking	<p>C1. Onsite parking is to be provided at the numerical rates detailed in Table 2.</p> <p>C2. Any development involving a land use other than a dwelling, secondary dwelling or dual occupancy must provide vehicular access to and from the site in a forward moving direction</p>	<p>Refer below</p> <p>Provided – discussed in the key issues.</p>	
A2.3 Access & Parking Demand Schedule			
Schools (secondary) Table 2f	<p>Staff – 0.5/staff (151) – 76 spaces</p> <p>Customer – 1/12 students – 115 spaces</p> <p>Bicycle - 1/5 students</p> <p>Service vehicles – HRV</p> <p>1 Bus stop/100 students</p>	<p><u>Car parking</u></p> <ul style="list-style-type: none"> • Required – 191 spaces • Provided - 88 (existing) + 115 (new) = 203 spaces • Bus stops – provided in northern car park (drive thru) • 2 loading docks • Bicycle – 38 spaces 	Yes

Section A15: Waste Minimisation and Management

A *Waste Management Plan* prepared by Newton Denny Chapelle dated February 2022 ('WMP') has been provided for the proposal, which outlines waste management arrangements for the construction and operation phases of the development. The WMP satisfies the requirements of Part B of Section A15 of the TDCP 2008.

Part D provides the controls for the development-Specific Assessment Criteria/Controls. In relation to the construction phase of the proposal, 80-90% of the construction waste will be recycled/reused, while the remainder will be transported to the Stotts Creek Resource Recovery Centre.

For the operational phase of the proposal, the WMP states that the School's maintenance staff will collect the bins and place them on the internal roadside within the campus to be collected by Council's waste collection vehicle. The general waste (red) bins will be collected weekly, while the recycle (yellow) bins will be collected fortnightly. The proposed 30% increase in the student population of the school will result in the need for an increase in the number of (red) general waste bins from 40 to 52 and from 5 to 8 recycle bins. These additional bins can be accommodated on the site, while the collection of the bins will continue to be undertaken as per the current arrangements.

The proposed waste management arrangements are considered satisfactory and generally consistent with Section A15 of the TDCP 2008. Council's Environmental Health officer has reviewed the proposal and raises no objections subject to relevant conditions, which have been included in the recommended consent conditions.

Section A16: Preservation of Trees or Vegetation

The purpose of this Section of the DCP is to protect, insofar as it is reasonably possible, the biodiversity, amenity and cultural values of the Tweed Shire through the preservation of trees and vegetation. Section 3.6 allows the Council to request an Arborist's Report to be lodged with an application.

An Arborist's Report has been provided which considers the proposed tree removal and retention for the proposal, as well as tree protection measures for the trees to be retained on the site. Council's Biodiversity Planner has considered the Arborist's Report and raises no objections to the proposed removal of eight (8) trees from the site subject to conditions of consent which include offset planting and which cover these standards and requirements. These conditions have been included in the recommended consent conditions. The proposed tree removal is considered in further detail in the key issues section of this report.

Section A19: Biodiversity and Habitat Management

The section provides controls for the assessment of biodiversity impacts from development, with the aim being to ensure that, subject to any relevant overarching state or commonwealth legislation, the planning and design of new development maintains or improves ecological values within Tweed Shire. Since the Biodiversity Offset Scheme (BOS) does not apply (discussed above), the proposal is assessed under Pathway 1 (Part 4 of the EP&A Act).

Pursuant to Development Control C1 of Part B, the site is known to support 'Red Flagged' biodiversity values including, but not limited to, the following and must be retained on site:

- EEC – Candidate Lowland Rainforest (30m ecological setback)
- Wildlife Corridor – Regional Corridor (Stotts 2003) (20m ecological setback)
- Other bushland on a slope of greater than 18 degrees (20m ecological setback)
- Second order stream (20m ecological setback – from top of bank of the waterway)

Development control C9 states:

The following areas that are within the same lot (or lots) to which the development application applies are to be protected in perpetuity as protected habitat:

Larger scale developments not involving subdivision – a) all relevant red flagged areas across the entire site within 200m of the development envelope(s) and b) associated ecological setbacks within 200m of the development envelope(s).

In this case, the areas of the site listed above are red-flagged and therefore subject to the proposal being for "other development", are required to be protected as to be determined on a case by case basis consistent with C11.

Development Control C10 states:

The following areas that are within the same lot (or lots) to which the development application applies are to be managed under an approved Habitat Management Plan (see C12) for the duration specified.

Development Controls 12 to 16 outline controls for the Habitat Management Plan. In this case, the HRP is proposed and has been assessed by Council's Biodiversity Planner as being adequate. Development Control 17 provides controls for Koala planning, which are considered in the assessment of the proposal in relation to the TCCKPoM. Development Control C21 provides circumstances where a development setback is required to manage potential bushfire risk which may overlap with an ecological setback. The proposed APZ does not result in any significant ecological impacts. These matters are addressed in the key issues section of this report.

The proposal is considered to be consistent with Section A19: Biodiversity and Habitat Management of the TDCP 2008.

Section B24 – Area E Urban Release Development Code

Section B24 of the Tweed DCP identifies design principles for high quality urban and sustainable development of the site as well as the need to provide critical infrastructure within Area E. These include internal roads such as Broadwater Parkway, structured and casual open space, and land for stormwater drainage (**Figures 14 & 15**).

There are no specific controls relevant to the proposal as the site is marked for school purposes. The controls of Section B24 are generally for residential development, subdivision and the provision of infrastructure. The site is not located in the area for village centre controls. The proposal is considered to be consistent with Section B24 for Area E of the TDCP 2008.

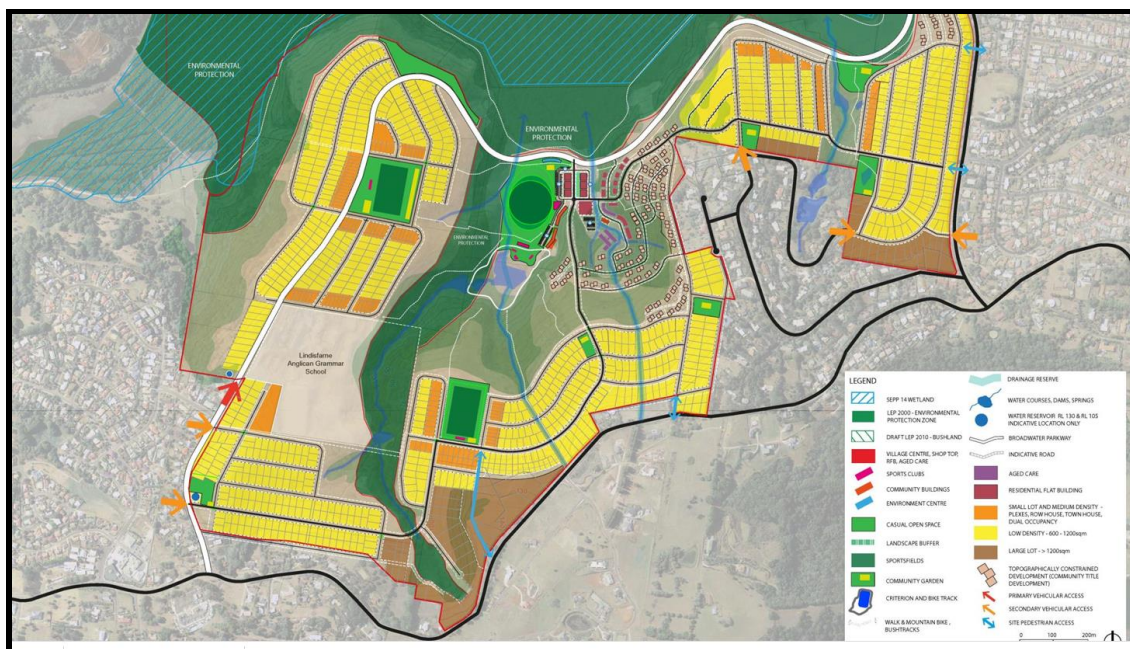


Figure 14: Indicative Structure Plan - Area E (Source: Council's DCP)

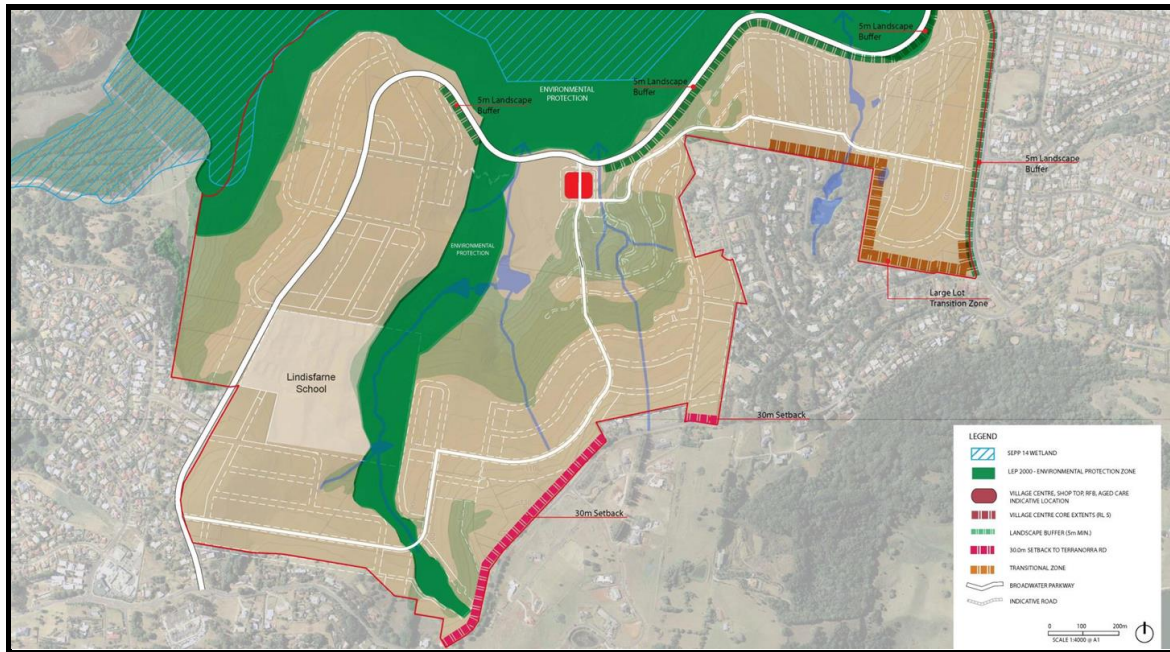


Figure 15: Transitional Zone and Buffers Diagram (Source: Council's DCP)

Contributions Plans

The following contributions plans are relevant pursuant to Section 7.18 of the EP&A Act and have been considered in the recommended conditions (notwithstanding Contributions plans are not DCPs they are required to be considered):

- *S7.11 Development Contributions Plan - No. 4 – Tweed Road Contribution Plan*

Contributions under Plan 4 are charged at the rate of 1.4 trips per enrolment. A modification factor of 0.8 is applied to high schools to account for trip sharing. This application relates to an increase in student numbers of 514 students. This equates to 575.68 trips charges at the rate of \$2423 per trip. Council's Business Investment Policy provides for a 40% discount on Plan 4 charges for employment generating developments. This has been applied.

Total charges under Plan No. 4 are \$836,923.64.

- *S7.11 Development Contributions Plan - No. 18 – Council Administration Offices and Technical Facilities*

Contributions under Plan 18 are charged at the rate of 0.1503 ETs (Equivalent Tenement) per 300m² of floor area. The additions proposed under this application have a floor area of 1,887.5m². This equates to 0.9455 ETs charged at the value of \$2,252.11 per ET. Total charges under Plan No. 18 are \$2,129.42.

The contribution charges are included in the recommended consent conditions.

(d) Section 4.15(1)(a)(iiia) – Planning agreements under Section 7.4 of the EP&A Act

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

(e) Section 4.15(1)(a)(iv) - Provisions of Regulations

The following matters require consideration in relation to Part 4, Division 1 of the 2021 Regulations:

- Section 61(1) - In determining a development application for the demolition of a building, the consent authority must consider the Australian Standard AS 2601—2001: The Demolition of Structures - minor demolition is proposed to the existing trade training kitchen building. Relevant conditions are included in the recommended consent conditions in relation to demolition of structures.
- Section 62 (consideration of fire safety) – this is not relevant as a change of building use is not proposed;
- Section 64 (consent authority may require upgrade of buildings) – minor removal of a portion of the existing walls and new doorways connecting from the existing trade kitchen to the proposed new food classrooms and to the proposed gym extension in the seniors centre building are proposed. Council's Building Surveyor raises no objections to the proposal subject to conditions, which have been included in the recommended consent conditions.

Accordingly, the provisions of the 2021 EP&A Regulation have been adequately considered.

3.2 Section 4.15(1)(b) - Likely Impacts of Development

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

The consideration of impacts on the natural and built environments includes the following:

- Context and setting – The proposal is considered to be generally consistent with the context of the site, in that the proposed new buildings and car park areas are of an appropriate scale for the site with large areas of open space and landscaping retained. The scenic qualities of the area are also retained and students and staff can traverse the site on footpaths separate from the internal road system. The character and amenity of the locality is maintained given the large areas of open space on the site and the street frontage is satisfactory given the boundary planting comprising verge street trees to Mahers Lane. Given the large site and adequate setbacks, the character of the surrounding development is maintained and potential impacts on adjoining properties is minimal.
- Access and traffic – The access and traffic issues are considered in the key issues section of this report. These matters are satisfactorily addressed subject to conditions.
- Public Domain – The proposal provides pedestrian linkages in the area through the provision of additional footpaths along Mahers Lane. Improvements are also proposed

which will improve traffic flow along Mahers Lane and provide additional car parking within the site.

- Utilities – All of the required utilities are available at the site, with some to be augmented as outlined in this report and where required consent conditions are recommended.
- Heritage – There are no heritage items located on the site contain or on any adjoining or nearby sites. Aboriginal cultural heritage is considered in the key issues section of this report and is adequately addressed.
- Other land resources – The site is not located within or adjacent to water catchment or mining. There are some agricultural land uses in the area, however, the proposal does not affect, or is affected by, such uses.
- Water/air/soils impacts – The potential for contaminated land is considered in the assessment under the Hazards & Resilience SEPP and the site is affected by acid sulphate soils however a management plan is not required (refer to the TLEP 2014 assessment).
- Flora and fauna impacts – Potential ecological impacts and tree removal is considered in the key issues section of this report.
- Natural environment – There is some tree removal and earthworks proposed on the site, however, impacts to the natural environment have been minimised. These matters are considered in the key issues section of this report.
- Noise and vibration – An Acoustic Report has been provided which is considered in the key issues section of this report. Council's Environmental Health Officer has reviewed the proposal and the report and considered it acceptable subject to conditions which have been included in the recommended conditions.
- Natural hazards – The site is affected by bushfire, which has been considered by the NSW RFS and a Bushfire Safety Authority has been issued. This is considered further in this report. Relevant conditions have been included in the recommended conditions.
- Safety, security and crime prevention – This is considered in the key issues section of this report and is considered satisfactory.
- Social impact – The proposal enhances the facilities at an existing school which will support current and future students in education, which is a social benefit. The proposal is considered to result in a positive social impact.
- Economic impact – The proposal will assist with employment generation in relation to teachers, support and grounds staff at the school as well as constructed related jobs. The school would also provide additional investment in local businesses to provide goods and services to the school. The proposal is considered to result in a positive economic impact.
- Site design and internal design – It is considered that the proposed new buildings and car parking have been set out appropriately on the site to mitigate potential impacts (subject to conditions of consent as outlined in the recommended consent conditions).

- Construction – Relevant conditions have been imposed to reduce potential construction impacts. A Construction Traffic Management Plan has been requested as a deferred commencement condition to ensure vehicle movements will not adversely impact on the school drop off and pick up arrangements.
- Cumulative impacts – The proposal will not result in any adverse cumulative impacts as it is generally consistent with the planning controls and is considered to be in the public interest.

Accordingly, it is considered that the proposal will not result in any significant adverse impacts in the locality as outlined above.

3.3 Section 4.15(1)(c) - Suitability of the site

The site is considered to be suitable for the development given the proposal is for alterations and additions to an existing school and the proposed new buildings have been integrated into the site. The proposed additions are considered to be compatible with the locality given they are to be constructed having regard to the topography and significant landscaping opportunities are provided throughout the site.

There are adequate services, transport infrastructure and open space in the vicinity which will assist in minimising the impact of the development in the area. The site is affected by bushfire prone land which has been considered by the NSW RFS and is considered satisfactory subject to conditions.

The site attributes are conducive to the development in that the proposal will provide additional classrooms within an existing school and additional car parking and access arrangements are provided. There are not any adjoining uses which are prohibitive of the proposal. The site's suitability for the development is further considered in the key issues section of this report.

3.4 Section 4.15(1)(d) - Public Submissions

The community submissions are considered in Section 5 of this report.

3.5 Section 4.15(1)(e) - Public interest

The proposal is considered to generally be in the public interest as the proposal provides enhanced learning opportunities at an existing school where adequate car parking and access arrangements have been provided. The potential impacts of the proposal have been adequately mitigated as discussed in the key issues section of this report.

The proposal is also generally consistent with the applicable planning controls as outlined in this report. The proposal is also considered to result in positive social and economic impacts as outlined above and the health and safety of the public will not be affected.

The site is located in the Northern Rivers and is subject to the provisions of the North Coast Regional Plan 2041. The proposal is generally consistent with the regional strategy. The proposal is consistent with the principles of Ecologically sustainable development as outlined in the Sustainability report prepared by the school including the extensive use of solar, recycling and energy efficient classroom equipment.

Accordingly, on balance, it is considered that the proposal is consistent with the public interest.

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in **Table 10**. There are no outstanding issues arising from these concurrence and referral requirements subject to the imposition of the recommended conditions of consent.

Table 10: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements (s4.13 of EP&A Act)			
N/A			
Referral/Consultation Agencies			
Electricity supply authority	Section 2.48 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development near electrical infrastructure	No objections raised by Essential Energy.	Yes
Transport for NSW	Section 2.121 & 3.58(3) – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development that is deemed to be traffic generating development in Schedule 3.	Comments from TfNSW have been considered in the key issues section of this report. Relevant conditions of consent have been included in the recommended consent conditions.	Yes
Integrated Development (S 4.46 of the EP&A Act)			
RFS	S100B - <i>Rural Fires Act 1997</i> bush fire safety of subdivision of land that could lawfully be used for residential or rural residential purposes or development of land for special fire protection purposes	A Bushfire Safety Authority has been provided subject to General Terms of Approval (GTA) from the NSW RFS. Relevant conditions of consent have been included in the recommended consent conditions.	Yes

4.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 11**.

Table 11: Consideration of Council Referrals

Officer	Comments	Resolved
Traffic Engineering	Council's Traffic Engineering Officer reviewed the proposal and raised concerns in relation to the accuracy and completeness of the information provided in the submitted Traffic Impact Assessment. Concerns raised regarding access to and from Mahers Lane, queuing traffic, adequate parking spaces, intersection impacts and road upgrades. A revised Traffic Report was provided and no objections were raised subject to the conditions included in the recommended consent conditions.	Yes Refer to key Issues
Building	No objections subject to recommended conditions	Yes
Environmental Health	Minor clarifications required on the Construction Noise Assessment and Operational Noise Assessment, food premises issues, waste management and contaminated land assessment were provided following an RFI. No objections subject to conditions.	Yes
Water and Wastewater	Initial concerns were raised and included in the RFI; however, these issues have now been addressed and no objections are raised subject to recommended conditions.	Yes Refer to key issues
Infrastructure (Stormwater) Engineer	No objections subject to recommended conditions.	Yes Refer to key issues
Sustainability and Environment Unit (Biodiversity Planner)	Initial concerns were raised and included in the RFI; however, these issues have now been addressed and no objections are raised subject to recommended conditions.	Yes Refer to key issues

The issues raised by Council officers are considered in the Key Issues section of this report (where relevant) and the required conditions have been included in the recommended consent conditions.

4.3 Community Consultation

The proposal was advertised and notified in accordance with the Council's Community Participation Plan with a submission period from Wednesday 27 April 2022 to Wednesday 11 May 2022. The notification included the following:

- An advertisement in the local newspaper Tweed Link for 14 days from Wednesday 27 April 2022 to Wednesday 11 May 2022;
- A sign placed on the site (from 26 April 2022);
- Notification letters sent to adjoining and adjacent properties (approximately 13 properties were notified);

- Notification on the Council's website.

A total of five (5) unique submissions noting concerns with the proposal were received. The issues raised in these submissions are considered in **Table 12**. The issues are considered further in the key issues section, where relevant, and have been adequately considered in this assessment.

Table 12: Community Submissions

Issue	No of submissions	Council Comments
Existing traffic congestion and increase in traffic generation	5	<p>The submissions stated that the existing school resulted in significant traffic generation in the area and that an increase in student numbers would exacerbate these impacts.</p> <p><u>Comment:</u> The Traffic report addresses these issues and the traffic and parking impacts of the proposal are considered in the key issues section of this report. Council's Traffic Engineer does not object to the proposal subject to consent conditions.</p>
Inadequate Traffic Report	2	<p>The submissions raised concerns that the Traffic Report is inadequate as the report underestimates the existing traffic volumes since the study was conducted after Year 12 students were no longer at school.</p> <p><u>Comment:</u> Council's Traffic Engineer reviewed the proposal and the submissions and stated that the Traffic Report had also carried out assessments based on three other dates, over several years (by other consultants – Bitzios), using SIDRA to compare the surveyed counts with projected development assessments. There were initially other concerns with the Traffic Report, however, these were subsequently resolved. These matters are considered further in the key issues section of this report.</p>
Impact on intersection of Maher's Lane Terranora Road	2	<p>The submissions raised concerns that the proposed increase to student numbers would exacerbate the congestion at this intersection and that a roundabout should be required at this intersection.</p> <p><u>Comment:</u> This matter is considered further in the key issues section of this report. Furthermore, it is acknowledged that the school is already operating at the proposed increased student enrolment level and therefore additional traffic should not be generated by the proposal. Council is satisfied no roundabout is required at this intersection.</p>
Cumulative traffic impact with other residential	1	<p>Concern was raised that a new subdivision at the end of Mahers Lane will increase traffic on Mahers Lane and at the intersection with Terranora Road.</p>

subdivision on Mahers Lane		<u>Comment:</u> The construction of Broadwater Parkway will be required when this approved subdivision is constructed.
Notification Process	2	<p>The submissions raised several concerns with the notification process including that it did not refer to the previous withdrawn DA, that the DA sign was not visible along Mahers Lane and that the notification letters were not sent to a wide enough number of residents. Also, it was requested that the school should conduct a public meeting to address traffic issues.</p> <p><u>Comment:</u> The Council carried out the notification process in accordance with the Council's Community Engagement and Participation Plan 2019 and there is a photo of the DA notification sign placed at the school's entrance along Mahers Lane. A public meeting is not required to be held under the Policy.</p>
Hydraulic Services	1	<p>A submission raised concerns regarding the occupancy certificate for existing building and fire certification.</p> <p><u>Comment:</u> Adequate water supply can be supplied to the site as outlined in the revised Hydraulic Report. Council's water and Wastewater unit has reviewed the proposal and raises no objections subject to conditions. These conditions have been included in the recommended consent conditions.</p>
Broadwater Parkway construction	3	<p>Submissions enquired about the timing of the construction of Broadwater Parkway and whether it was part of this development application.</p> <p><u>Comment:</u> Council's Traffic Engineer stated that the construction is contained in the S7.11 Plan and is dependent on the approved subdivision (Altitude). This road is not part of the current development application and is not required for this proposal. This is further discussed in the key issues section of this report.</p>
Increase traffic due to roadworks on Scenic Drive (Bilambil Heights)	2	<p>The submissions stated that the roadworks being undertaken on Scenic Drive at Bilambil Heights was causing additional traffic to occur along Mahers Lane, exacerbating the impacts from the existing School.</p> <p><u>Comment:</u> It appears that considerable damage was experienced by this road due to a landslide from the 2022 floods, however, is being repaired by Council. Council's Traffic engineer also acknowledged that these concerns are noted, however this disruption to the local road network is temporary and should not</p>

		influence the assessment of this application. This is further discussed in the key issues section of this report.
Intersection of Mahers Lane and Eaglemont Drive	3	<p>The submissions stated that the intersection of Mahers Lane and Eaglemont Drive is dangerous and that “Keep clear” signage is required.</p> <p><u>Comment:</u> This is considered warranted and has been included in the recommended conditions of consent. This is further discussed in the key issues section of this report.</p>
Parent information	1	<p>A submission stated that regular school newsletter reminders should be provided to parents to be mindful of residents and their ability to access their properties.</p> <p><u>Comment:</u> This is considered warranted and has been included in the recommended conditions of consent. This is further discussed in the key issues section of this report.</p>
Right turn lane into the site	1	<p>A submission stated that a right turn lane is required into the school.</p> <p><u>Comment:</u> This is considered warranted and has been included in the recommended conditions of consent. This is further discussed in the key issues section of this report.</p>
Roadworks part of application	1	<p>A submission asked whether the road works were part of the application.</p> <p><u>Comment:</u> The roadworks is part of the application and have been included in the recommended conditions of consent. This is further discussed in the key issues section of this report. Further approval and review of the roadworks will be undertaken in a s138 approval and the local Traffic Committee respectively.</p>

5. KEY ISSUES

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

5.1 Traffic & Parking

The proposal involves a large school with a significant number of bus and vehicle movements being generated in the morning and afternoon school drop off and pick up times. The existing school also has been known to cause congestion on the local road network at these times and accordingly potential traffic and parking impacts require detailed assessment. While there is an increase in the number of students and staff proposed for the school, it is understood that these additional staff and students are already at the school.

It is noted that the locality is characterised by undulating topography and some of the roads in the vicinity of the site are without kerb and guttering or formal footpaths and cycle paths. Mahers Lane is a two (2) lane local road which adjoins the site to the west and provides the only vehicle access to the site. Mahers Lane terminates approximately 700 metres north of the site access and is infrequently used as the road only provides access to a small number of rural residential properties beyond the school.

Terranora Lane is a local road, comprising two (2) lanes which winds through undulating topography along the ridge line and connects with the Pacific Motorway to the east of the site. Terranora Road provides the primary connection between Bilambil, Banora Point and North Tumbulgum to the greater Tweed area. Eaglemont Drive is a local road providing access to residential properties and is located to the southwest of the site.

Mahers Lane connects with Terranora Road, approximately 450 metres from the proposed southern-most access point to the school, to the south of the site. The intersection of Mahers Lane with Eaglemont Drive is priority controlled, with Mahers Lane having priority. The intersection of Mahers Lane with Terranora Road is also priority controlled, with Terranora Road having priority.

There are a number of bus routes that service the site, which include both public buses (x13) and school bus routes (x8), which are a combination of public and school-run (owned) services. A transport study undertaken by the school indicated that approximately 62.8% of students travelled to school by bus, while 26% were driven to school.

A pedestrian crossing on Mahers Lane is operated during peak school hours to facilitate pedestrian traffic crossing between footpaths. The location of footpaths and the crossing are shown in **Figure 16**.

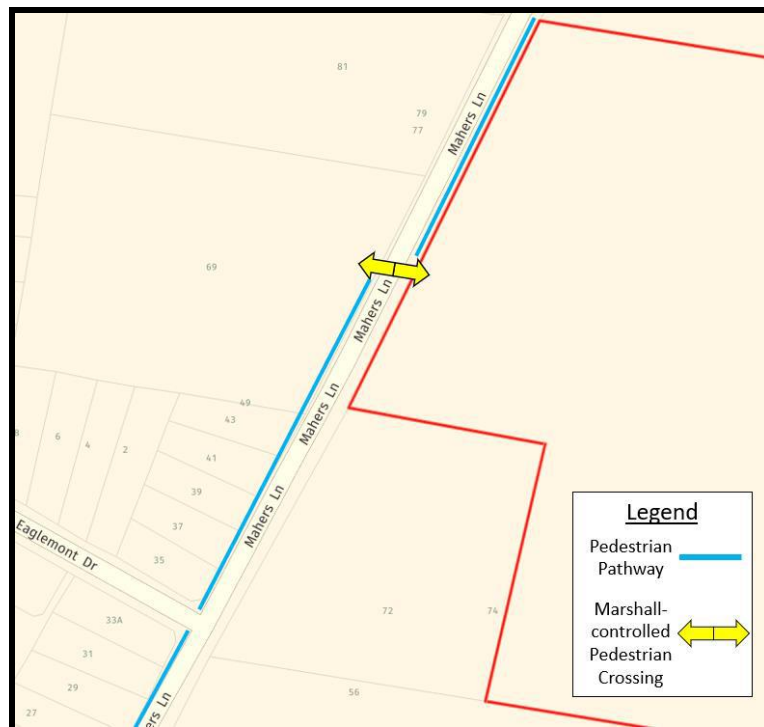


Figure 16: Existing Footpaths and School Crossing (Source: Traffic Report)

The potential traffic, access and parking issues can be divided into the following matters:

- (a) Advice from Transport for NSW
- (b) Traffic generation and capacity of the road network and intersections
- (c) Adequacy of the Traffic Report
- (d) Bus and parent pick up and drop off arrangements
- (e) Vehicle access to the site
- (f) Required works to Mahers Lane
- (g) Car parking and Service vehicles

These matters are addressed in the following documents lodged with the application:

- *Traffic Engineering Report* prepared by ttm dated 3 May ('the Traffic Report');
- *Letter Report* prepared by ttm dated 16 March 2023 in response to RFI; and
- *Operational Transport and Access Management Plan* prepared by ttm dated 4 May 2023 ('the OTAMP').

- (a) Advice from Transport for NSW ('TfNSW')

The TfNSW referral considered the potential impacts arising from the proposal on the safety and efficiency of the transport network and provided a number of comments to assist Council in making a determination. These are considered below.

- *State Road Network - It is considered that there will be no significant impact on the nearby classified (State) road network as a result of the proposed development*

This is noted

- *Active Transport – The proposal supports the use and uptake of alternative transport options. Stronger scope for links such as existing pedestrian and cycling facilities in*

the surrounding network to the south should be investigated

This is supported in the School's OTAMP and will need to be considered by Council in their wider planning for the area

- *Crossing - Safety improvements on Mahers Lane should include upgrades to the existing Children's Crossing to a Safe Systems design, including consideration of a raised crossing platform and / or central islands (in a pedestrian refuge style) to keep traffic speeds within acceptable limits. The crossing supervisor should be retained at the crossing (subject to warrant conditions)*

The proposal includes relocating the existing school crossing further to the north along Mahers Lane as the existing crossing is located in close proximity to the central exit point (**Figure 17**). It is noted that TfNSW encourages a children's crossing with a raised pedestrian refuge, however, the Traffic Letter Report expressed concern with this requirement. Council's Traffic Engineer considers it is required and therefore it is supported. Relevant conditions have been included in the recommended consent conditions for the provision of this crossing.



Figure 17: Existing school crossing close to the central access point

- *40 School Zone – Provided that the southern-most access will be exit only and carpark 4 is formalised, the existing School Zone along Mahers Lane does not need to be modified.*

The school zone shall remain as currently provided

- *Local Traffic Committee (LTC) – The submission of a plan detailing all proposed on-street improvements on Mahers Lane is recommended to make a full assessment of the potential safety implications. This is suggested at DA stage although these plans will be necessary when the proposal goes before Tweed LTC.*

A condition has been included in the recommended consent conditions to this effect.

Advice to council from TfNSW

- *Council should ensure that appropriate traffic measures are in place during the construction phase of the project to minimise the impacts of construction vehicles on traffic efficiency and road safety within the vicinity.*

A Construction Traffic Management Plan has not been provided, which illustrates the vehicle access for construction, the likely construction period and the arrangements for staff and student parking whilst construction is being undertaken. It is recommended that this is provided as part of the deferred commencement condition.

- *Council should have consideration for appropriate sight line distances in accordance with Section 3 of the Austroads Guide to Road Design Part 4A (Unsignalised and Signalised Intersections) and the relevant Australian Standards (i.e. AS2890:1:2004) and should be satisfied that the location of the proposed driveway promotes safe vehicle movements.*

Council's Traffic Engineer raises no objections to the proposed access points.

- *All matters relating to internal arrangements on-site such as traffic / pedestrian management and safety, parking, manoeuvring of service vehicles and provision for people with disabilities are matters for Council to consider.*

These have been considered in this assessment.

The matters raised by TfNSW have been included in the recommended consent conditions where required.

(b) Traffic generation and capacity of the road network and intersections

The Traffic Report analysed the intersections in the vicinity of the site including the site access points using SIDRA, which included the existing operation as well as the likely impacts arising from the proposed development. The analysis indicated that all intersections reviewed, including the Terranora Rd/Mahers Lane, Mahers Lane/Eaglemont Dr and the proposed access points with Mahers Lane, are currently operating with spare capacity, most with significant spare capacity. The highest degree of saturation of 0.350 (35.0%) was occurring at the intersection of Mahers Lane / Eaglemont Drive in the AM peak period. The worst delay of 33.4 seconds occurred at the intersection of Terranora Rd / Mahers Lane (Site 1), from a northern approach turning right.

For all of the intersections involving the site access as well as the intersection of Mahers Lane and Eaglemont Drive, the modelling showed that these intersections have a sufficient level of spare capacity to accommodate additional movements arising from the proposed development. The analysis indicated that the intersections would operate acceptably in all assessment scenarios and that no further assessment or mitigation of these intersections was required. While some movements through the site access intersections experienced some delays, this was largely due to vehicles re-entering Mahers Lane to recirculate the car park. This is likely to be reduced by the proposed car parking areas on the site, which will allow for some internal recirculation.

The Mahers Lane and Terranora Road intersection is the main intersection in the vicinity of the site and the capacity of this intersection to cope with the proposed additional student

numbers has been raised in the majority of the community submissions. The reliance on the construction of the Broadwater Parkway was a further concern. Currently, all traffic (with the exception of a minor number travelling via Eaglemont Drive) are required to travel through the Terranora Road/Mahers Lane intersection. The adopted distribution results in a large increase to right turn movements into Mahers Lane (as this is the direction of traffic heading to the School), which in turn adds delay to the right turn out of Mahers Lane.

The Traffic Report concluded that this intersection would accommodate the development and operate within acceptable parameters until 2033, whereby the DOS increases to 0.919 and the worst movement delay exceeds 42 seconds. The Traffic Report further qualified this by stating that the queues will remain low and that the average intersection delay is less than 10 seconds which is in line with impact assessment guidelines. The Traffic Report also concluded that vehicles making this right turn in the 2033 AM with development scenario made up only 2.5% of all movements through the intersection. These 'delayed' vehicles would be travelling west along Terranora Road, away from the Pacific Motorway, which is where the majority of the traffic would be heading at that time of the day (likely for work/school).

The Traffic Report further noted this above scenario is unlikely to be experienced in the future to the extent modelled, as Mahers Lane will eventually connect through to Fraser Drive, as "Broadwater Parkway", identified in Section B24 (Area E) of the TDCP 2008. The provision of this link will provide a secondary east-west link which will reduce reliance on the Terranora Road/ Mahers Lane intersection being used by school traffic. The Traffic Report states that it is not envisaged that changes to the current intersection are warranted.

Council's Traffic Engineer concurs with this assessment and considers that the right turn lane into Mahers Lane is around 35 metres long and can hold around 6 vehicles until it impacts on Terranora Rd westbound traffic flow. The ability to turn right depends on eastbound traffic flow on Terranora Rd, which is higher in the morning as residents travel to work. These factors should be considered in the context that the student car travel population has been modelled in excess of that which actually occurs as demonstrated by the travel mode surveys, that is 51% has been modelled, compared to only 35% actual travel mode data. It is therefore envisaged that the intersection will operate beyond 2033, particularly as the school continues to improve on its travel mode shift.

The important issue is that the school (and public) buses are to be the first choice of travel and therefore it is important that priority is provided for buses to enter and leave the site (discussed below).

In relation to traffic flow along Terranora Road, it is noted that traffic along Terranora Road can vary for a number of reasons including the roadworks being undertaken on Scenic Drive (Bilambil Heights) which has created greater traffic generation (in the order of a 50% increase). This was raised in submissions, however, it is considered that this is temporary and should not be used to influence overall traffic counts for the proposed development. Similarly, Terranora Road is often used as an alternative route during times of flooding in parts of the locality and when accidents occur on the M1 Highway, which can also increase traffic on Terranora Road.

In relation to traffic flow and the capacity of Mahers Lane to absorb the traffic entering and exiting the school from the existing northern access point, this has been constrained by the queues of vehicles waiting to enter the school, particularly in the afternoon pick up time. This congestion was higher prior to the installation of the "No stopping signage" along the western side of Mahers Lane, which was replaced with a continuous yellow line in 2016. A 60 metre long right turn lane is proposed in this application, which will further assist in allowing for right turn movements across Mahers Lane into the school, while allowing northbound traffic

to continue along Mahers Lane. These measures in combination will assist with keeping traffic flowing northbound along Mahers Lane.

Following consideration of the SIDRA modelling and comments from Council's traffic engineer, it is considered that the traffic generation from the proposal is acceptable as the existing road network, including intersections, will continue to function within acceptable standards subject to the recommended conditions for right turn bays discussed below.

(c) Adequacy of the Traffic Report

The Traffic Report has been amended on several occasions in response to concerns raised by Council (including Council's Traffic Engineer) and in the community submissions. There were concerns raised in relation to whether the traffic data was adequate as the submissions stated it was collected when Year 12 had finished school and whether the collection period was long enough.

The traffic data was collected over three (3) separate days in varying years and while the most recent surveys were undertaken when year 12 students had finished, it is still satisfactory as traffic generation from schools is cyclical and dependant on many issues. These issues can include weather, school events and the time of year.

While observational surveys are a snapshot of that time, Council Traffic Officers can use their own observations gained over extended periods to assess the potential impacts of a development proposal. The Traffic Report is considered to be satisfactory.

(d) Bus and parent pick up and drop off arrangements

The OTAMP conducted a travel survey to identify current transport patterns, with the surveys receiving a response rate of 51% for staff and 43% of students. The surveys revealed the following:

- Staff - 89.72% drove to school, while only 7.48% arrived by bus and mainly arrived between 7.30am and 7.45am and departed the site at 4pm (on average). The majority of staff parked in the front car park adjoining Mahers Lane, while the other main areas were in the car park in front of the administration building and along Mahers Lane (between the northern and central access points); and
- Students – 62.8% of students travelled to school by bus, while 26% were driven to school (slightly higher for pick up at 30%). Around 4% of the students drove themselves, while only 3.6% walked or cycled (0.8%). The drop off locations when driven to school were largely along Mahers Lane (55%) and within the school grounds (39.2%). On pick up, 39% were from within the school grounds, while 32% waited on Mahers Lane. The remainder (29.1%) walked to a nearby street to be picked up.

This travel mode data has demonstrated the importance of buses and student drop off/pick up arrangements for the school. It is important to note that while the proposal includes an increase in student numbers, the school is operating at this proposed capacity. Accordingly, there are unlikely to be any changes to the existing traffic and parking generation at the site arising from the proposal.

The OTAMP includes site management tools which encourage students, parents and staff to make more sustainable transport choices and requires that a Travel Plan Coordinator or a Committee be established to co-ordinate and plan activities. This Coordinator will oversee the implementation of the actions of the travel plan, which will assist in reducing staff and students

arriving by car and therefore reducing traffic around the school. Based on the current trip proportions, the Traffic Report recommends an initial 5% target transport mode shift from private car usage (as driver) to sharing and switching to more sustainable travel modes. These targets span a 5-year period, this is equivalent to a 1% annual modal shift (targets may be increased pending annual review).

A condition has been included in the recommended consent conditions requiring adherence to the OTAMP and regular encouragement of the school community to strive for a greater use of buses for school transport as well as being mindful of residents and their ability to access their properties.

Bus services

The site currently includes a drive-through bus facility in the eastern branch of the internal northern drop off/pick up area. This eastern branch has two (2) distinct sections, separated by a pedestrian crossing and both identified as bus zones, thereby prohibiting use by private vehicles. These two bus stopping areas can adequately accommodate up to 6 buses accessing the school, four (4) in the southern section and another two (2) in the northern section. There is also a queuing area for a further two (2) buses beyond these northern spaces, which does not impact on the access to the public pick up area (**Figure 18 & 19**).

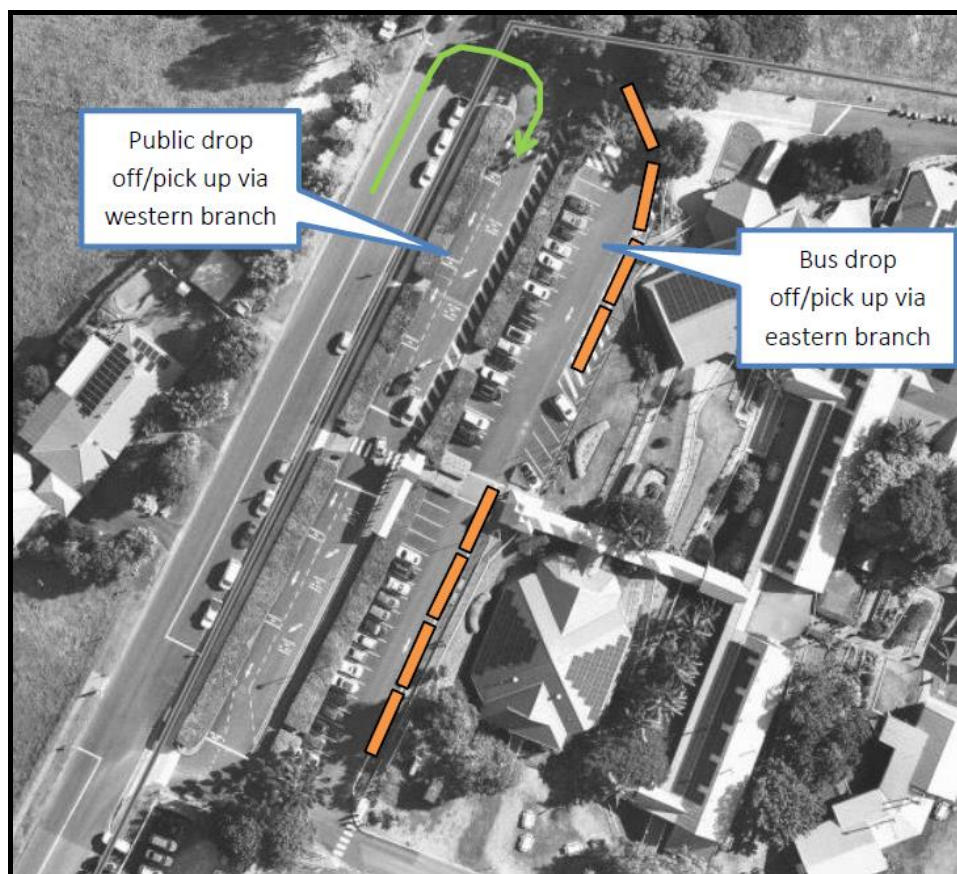


Figure 18: Proposed (existing) on-site bus areas (Source: OTAMP)

Staff parking is also provided in this area as 90 degree parking, with these spaces generally being occupied prior to buses arriving in the morning, and being vacated after the buses have departed in the afternoon (as shown in the travel survey). This limits interactions and conflict between vehicles and students.



Figure 19: Existing Bus drive-through facility (looking north)

The OTAMP outlines that there are ten (10) dedicated school bus routes that service the school as well as an additional 13 public bus services which stop at the School. However, the buses do not operate independent of each other as the drop off/pick up operation is a managed and timetabled arrangement by the school so they can line up nose to tail.

A review of bus arrivals to the school in the PM peak period (pick up) shows that the average peak number of buses on site at any one time is 8, noting that this only occurs for 10 minutes between 3.25pm and 3.35pm. After 3.35pm, the total peak buses on site is 2. The students are marshalled in the area below the drive-through facility and called to the drive-through facility when their bus has arrived, to ensure there is adequate separation of children and traffic.

There are no proposed changes to the physical infrastructure of the drop off and pick up areas or general access arrangements in that the existing northern and southern access points will remain entry-only and exit-only respectively (**Figures 20 & 21**). The additional student numbers being proposed are already attending the school and accordingly, the existing buses and vehicles generated by the site is unlikely to increase (although the modal split may change from time to time).

Therefore, the student numbers being proposed can be accommodated within the existing bus services and within this existing bus drive-through facility. No changes are considered warranted to the existing bus drop-off/pick up area.



Figure 20: Northern access - Bus entering the site (entry only)



Figure 21: Southern access point - Bus departing (exit only)

However, there are some improvements to this area, which are proposed in this application. These improvement include additional signage to ensure that buses and parent vehicles remain separated once in the site, enhancing the safety of the students passing through the area and reducing potential queuing on Mahers Lane (**Figure 22**).

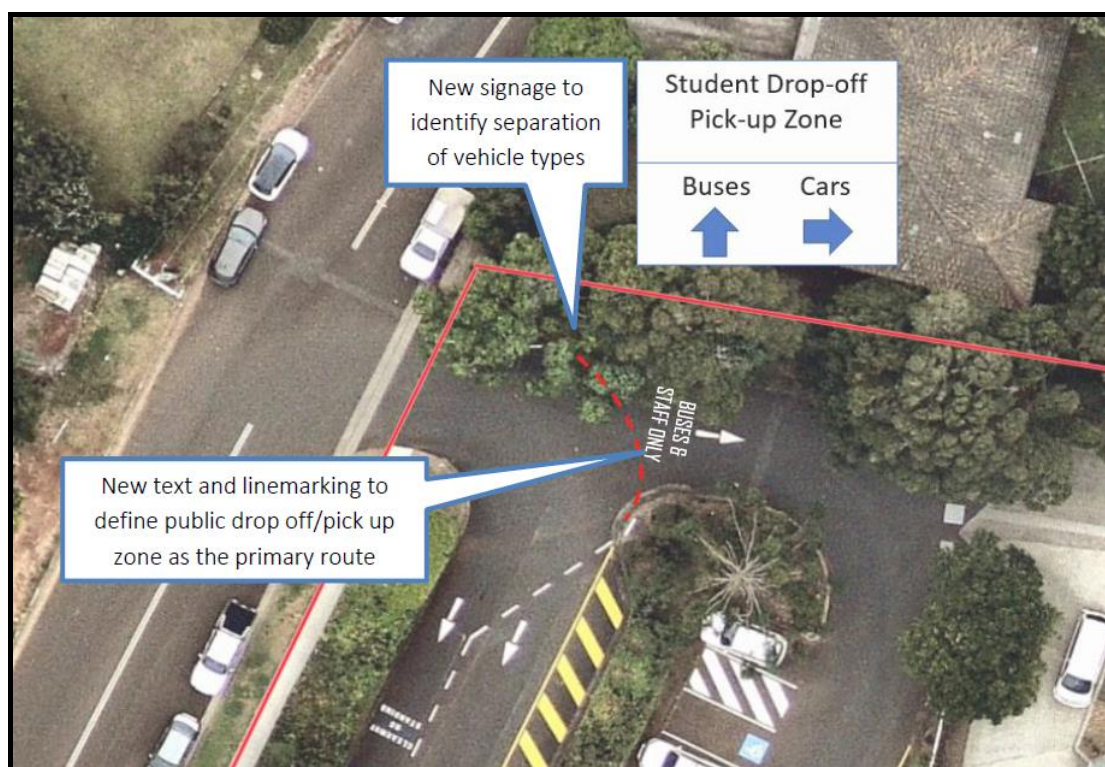


Figure 22: Proposed additional signage and line marking on entry to drive-through area (Source: OTAMP)

Based on the above, the retention of the current bus stop infrastructure is appropriate for the site and is able to safely accommodate the peak bus movements with limited to no hinderance to public vehicle access. Conditions have been included in the recommended consent conditions to ensure the proposed additional signage is provided on the site to ensure there is adequate separation between buses and parent drop off and pick up movements. A further

improvement will be the proposed right turn lane into the site at the northern access point, which will make it easier for buses to enter the site and will allow traffic to flow unrestricted along Mahers Lane to the north.

Student Pick-up/Drop off

Similar to the existing bus pick up/drop off facility, there is an existing student pick up/drop off drive-through facility used by parents located in the western arm of the internal northern drop off/pick up area (**Figures 23 & 24**). This area is separate to the existing bus area.



Figure 23: Existing Student Pick up/Drop off area (looking north)



Figure 24: Existing Student Pick up/Drop off area (looking south)

The OTAMP outlines that having regard to the student numbers at the school and the travel mode survey, a short term drop-off requirement equivalent to 390 vehicles is required. This calculation, however, does not account for siblings or students attending after school activities and therefore this requirement is unlikely to be this high.

The vast majority of these vehicle movements will be made through the existing drive-through zone. Following a site visit to the school (albeit during class time), this area appears to function well and is supervised by teachers to ensure student safety.

Given that Mahers Lane can become congested, particularly during the afternoon pick up time, it is considered that some additional space should be provided on-site for parent parking to allow for pick-up of students. This is particularly for parents that may arrive early so that there is less parking on the street, queuing in the street and/or disruption to traffic flows along Mahers Lane.

Having reviewed the proposed car parking, approximately 135 spaces would be needed for staff (based on 89% of the 151 staff driving to work) and 60 spaces for students who drive to school (based on travel mode study). This would leave approximately 8 spaces which could be used for parent parking. It is also acknowledged that greater car parking is likely to be provided in the future given the commencement of work for car parking on the adjoining site.

Accordingly, ten (10) car parking spaces in proposed Car Park A should be allocated to parent parking to allow for students to be picked up on site, particularly if the drive-through facility is at capacity. These spaces are to be 15 minute parking. Since parents will now be using Car Park A and given the existing potential for conflict with staff and buses leaving the site from the northern pick up area (opposite the exit to proposed Car Park A), it is considered that Car Park A should not be a drive-through car park.

The northern end is to be blocked off and a turning area provided. Vehicles will need to enter and exit via the southernmost access point (S2). These arrangements will also result in less vehicles entering via the northern access point to circulate through the car parking areas, thereby leaving greater capacity for buses to enter and exit the site and less delays in entering the site for buses.

Conditions have been included in the recommended consent conditions to ensure this parent parking is provided (as a deferred commencement conditions as outlined below). No other changes are required to this area, given the proposed increased students are already attending the site.

(e) Vehicle access to the site

The application proposes three (3) vehicle access points, all Type 3 Access Facility under AS 2890.1:2004, comprising the following (**Figure 25**):

- northern access – retains the current entry only (5.8m wide);
- southern access point 1 (S1) – retain the current exit only (6m wide);
- southernmost access point (S2) – proposed to formalise this access point as entry and exit (6m wide).



Figure 25: Proposed Access Points (Source: Traffic Report)

The application proposes a right turn lane into the existing northern access point, which is to be used to enter the drop-off/pick up zones by buses and parents as well as for staff parking. This is supported as it will allow for the northbound lane on Mahers Lane to continue unobstructed by vehicles and buses waiting to turn right into the school.

Council's Traffic Engineer also requires a right hand turn lane 40 metres in length to be constructed into the southernmost access point, S2, again to ensure traffic heading north along Mahers Lane, including buses, staff and parent vehicles associated with the school, can continue unobstructed by waiting traffic. All of the proposed access points are to be appropriately sealed, particularly S2 which is currently gravel and is causing dust and traction problems for vehicles using this informal access point. Relevant conditions have been included in the recommended consent conditions.

- (f) Required works to Mahers Lane and within the Site

External road works

There are a number of works required in the road reserve of Mahers Lane to ensure the proposed development has limited impacts to the local road network and nearby residents properties. The majority of these are outlined in the engineering plans prepared by Newton Denny Chapelle dated 23 February 2023 and include the following (**Figure 26**):

- (a) Children's crossing as outlined by TfNSW (removal of the existing crossing and the installation of a new one);
- (b) Right turn lanes into the northern and southernmost access points as outlined above;

- (c) Kerb and gutter is to be installed along the eastern side of Mahers Lane between the two southern access points into the site to prevent car parking on this road verge by staff, students and visitors to the site;
- (d) Footpaths are to be constructed on the eastern and western side of Mahers Lane for the frontage of the site (where they are not already located) as outlined on the engineering plans;
- (e) “keep clear” signage for the Mahers Lane and Eaglemont Drive intersection to prevent the queuing of cars across this intersection and which was requested in the community submissions; and
- (f) Sealed driveways to prevent dust and traction problems which are currently experienced in the southernmost (S2) access point.

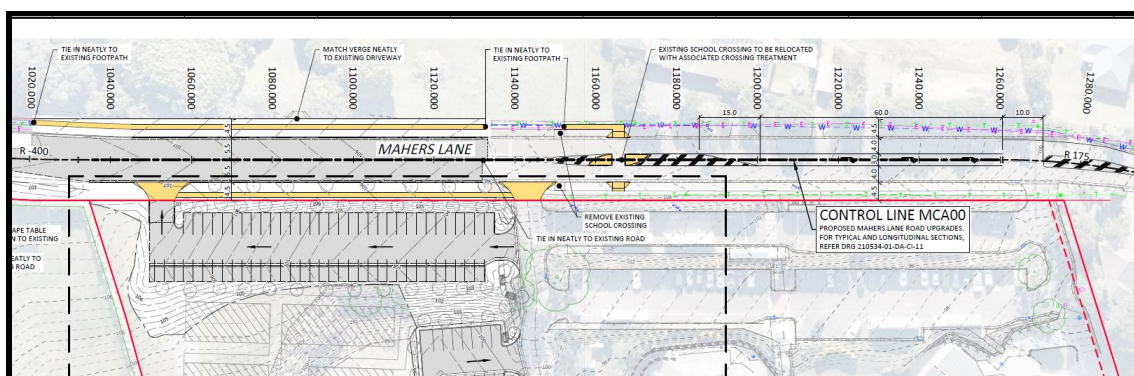


Figure 26: Proposed works in the road reserve (Source, NDC, Civil plans, February 2023)

Internal road works

There are a number of improvements which should be made to the internal roads and car parking areas which will assist in minimising vehicle conflict points and allow for better traffic flow to Mahers Lane. In particular, these are required to ensure there is priority given to buses entering and exiting the site (**Figure 27**). The proposed internal signage is illustrated in **Figure 28**.

The proposed car parking areas are generally satisfactory, particularly with the proposed additional signage as discussed above. However, proposed Car Park A provides a drive-through layout in that vehicles can enter through the southernmost entry point and exit through the central access point, which is likely to conflict with the buses and student pick up lanes which also use this internal road to exit the site through the central access point.

As outlined above, it is considered that additional parking spaces should be reserved for parents who wish to park briefly to pick up their children from within the school grounds and not wait along Mahers Lane. This will assist in easing congestion along the road as well as providing a safer area for students to be picked up.

To ensure there are no conflict points and additional on-site parent parking to allow for student pick up, proposed Car Park A shall be redesigned to restrict through movements by removing the northern exit onto the internal road and requiring a turning area at the northern end of this proposed car park. This will require the removal of two (2) spaces, one on either side of the car park (currently noted as spaces 33 & 34). It is recommended that this condition form the basis of a deferred commencement consent such that Council can be satisfied that the design

of Car Park A is satisfactory prior to operation of the consent. Relevant conditions have been included in the recommended consent conditions.



Figure 27: Existing Intersection of the bus & student drop-off/pick up areas (western & eastern arms)

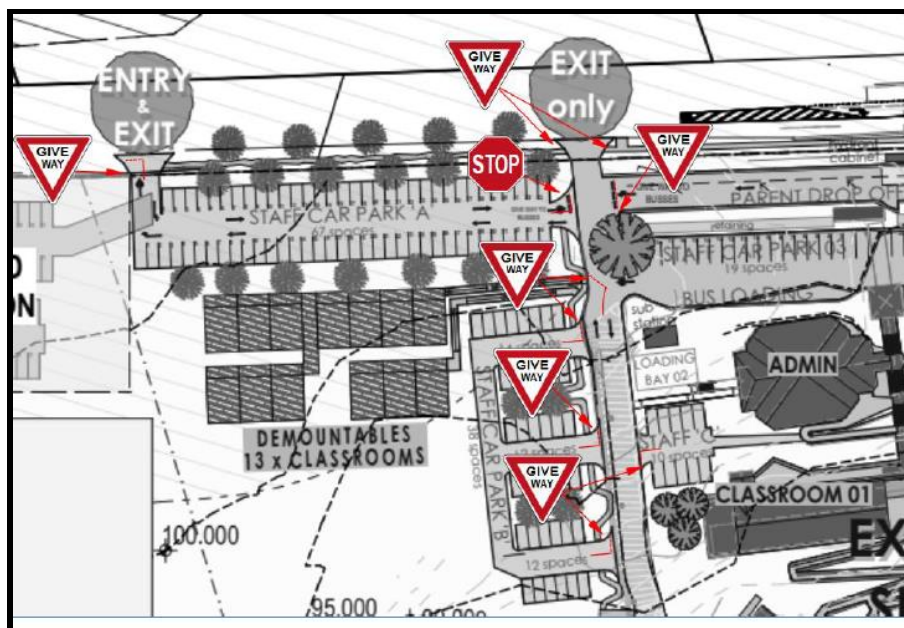


Figure 28: Proposed Internal Signage and Access control (Source: Traffic Report)

(g) Car Parking and Service vehicles

The car parking requirements for the proposed development are contained in Section A2 of the TDCP 2008 as outlined in Section 3 of this report. The total required car parking for the proposed development, being a secondary school, is 191 spaces, comprising 76 staff spaces (0.5 space/staff for 151 staff) and 115 student (or parent) spaces (1/12 students for 1,378 proposed students). This is a conservative estimate given there are two (2) school years at the site (Years 5 and 6) which are not classified as secondary school students.

It is understood that the school is currently operating with a student enrolment of the proposed 1,378 students and accordingly, there is a shortfall of at least 27 car parking spaces (not including staff parking shortfall) currently experienced on the site. This has resulted in vehicles parking on the verge of Mahers Lane and the establishment of informal parking areas within the site.

Both of these situations have inherent safety impacts, whereby vehicles are reversing onto Mahers Lane to access and exit parking spaces in the verge, while undesignated car parking areas on the site also present potential conflicts with pedestrians. Informal parking areas largely consisting of gravel, have also created concerns for nearby residents (and school users) with dust and problems driving on such surfaces. The proposal assists in resolving these current problems.

The site currently provides 88 car parking spaces within separate car parking areas around the site, which does not include the existing gravel car park at the front of the site or the spaces being constructed as exempt development (discussed below).

The proposed development comprises the construction of an additional 115 car parking spaces across a number of car parking areas located along the internal road. These proposed new spaces, combined with the existing (88) spaces, will result in **203 car parking spaces** being provided on the site, which is consistent with (and exceeds) the DCP controls (**Figure 29**). This provision is considered to be adequate to cover the existing parking shortfall, removal of parked vehicles from the verge to within the school grounds, and accommodate the current enrolment of 1,378 students.

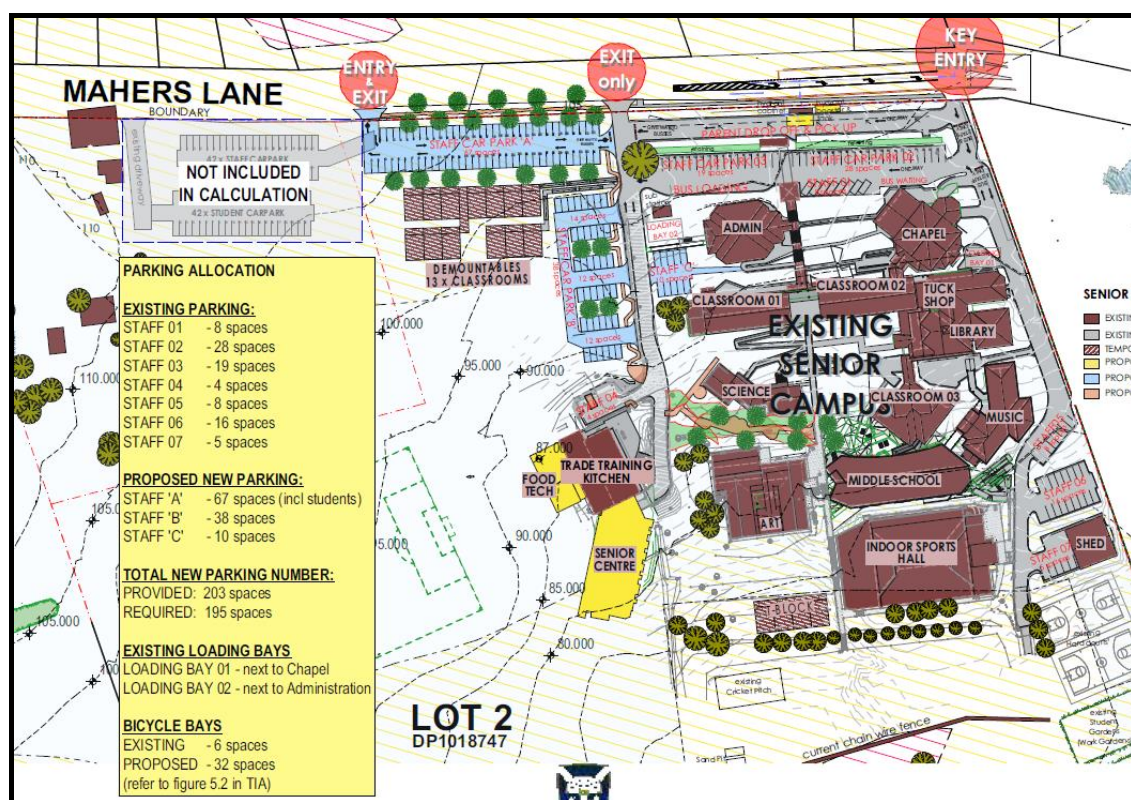


Figure 29: Proposed Car Parking on the site (Source: Raunik, May 2023)

In December 2022, the school began construction of two (2) new car parking areas comprising 42 staff parking spaces and 42 student car parking spaces (84 car parking spaces) as exempt

development under Section 3.17 of the T&I SEPP (**Figure 30**). While these spaces would further assist with reducing on-street car parking associated with the school, these spaces are not included in the car parking spaces for the current proposal and is matter for the Council.



Figure 30: Car Parking under construction (Source: Tweed Shire Council)

Bicycle Parking Provision

The DCP requires 1 bicycle space to be provided for every 5 students, which would require 276 bicycle spaces to be provided on the site for the currently proposed student population. The Traffic Report considers that since there are currently only approximately 30-40 students in the nearby residential area (within cycling distance), which equates to approximately 5% of the current enrolment, that it is recommended 14 bicycle racks are available on site to meet the 5% demand of 1378 students at the 1 per 5 student rate. The OTAMP proposes 38 bicycle spaces are provided on the site (**Figure 31**)

The School is located in a semi-rural but emerging residential area with reasonable pedestrian connectivity to nearby residential areas, via paved footpaths along the western side of Mahers Lane leading to the School, and the eastern side along the site's frontage. However, beyond this immediate area, there are limited footpaths and cycle facilities in the vicinity of the site.

Furthermore, the school has a large catchment area for existing students, with some students travelling up to 40km to attend. Therefore, the lack of cycle facilities in the area and with the majority of the student catchment not located within reasonable cycling distance of the school, the proposed bicycle spaces are sufficient for the current situation. This is further supported by the travel mode surveys which were conducted in February 2023 that identified only 0.8% of students cycled to/from school.

The proposed bicycle spaces is an appropriate basis to encourage the take up of cycling to/from the school in the future. The proposed cycle facilities are considered to be satisfactory.



Figure 31: Proposed Cycle Parking (Source: OTAMP, May 2023)

Car Park Layout

The Traffic Report considered that the layout of the proposed new car parking areas is consistent with AS2890.1 as required by the DCP, with the exception of the Queuing Area Marking. In this case, a single entry lane with a width of 6.8m is provided, which is considered satisfactory. Council's Traffic Engineer does not object to the proposed car parking, subject to conditions.

Service Vehicles

The DCP requires that a service/loading bay is provided which can accommodate an HRV. Two (2) service bays are proposed on the site, including adjacent to the chapel and tuck shop buildings at the northern edge of the site and accessed via the northern access road and one on the southern edge of the administration building accessed via the southern access road link (refer to plans). This is considered adequate for the proposal and consistent with the DCP requirements.

Following consideration of the traffic, access and car parking issues, it is considered that the proposal can be supported on traffic grounds subject to conditions as outlined in the recommended consent conditions.

5.2 Ecological Issues

The *Biodiversity Assessment Report* prepared by Australian Wetlands Consulting Pty Ltd dated February 2022 ('BAR') accompanies the application which aims to determine the significance of flora and fauna on the site and identify potential ecological impacts of the proposal. The BAR has considered threatened species or communities listed under the relevant statutory requirements and prescribes mitigation measures to minimise potential adverse impacts of the proposal.

Vegetation in the 7(d) land (beyond the proposed development footprint) associated with a second order watercourse remains as a contiguous tract forming a north-east corridor. The vegetation is mapped under the *Tweed Vegetation Management Strategy (2009 Update)* as predominantly 'Camphor Laurel Dominant Closed to Open Forest Camphor' – VC:1004. A narrow contiguous unit along the western edge closest to the development envelope is assigned a 'Not Assessed' category (**Figure 32**).

There were no threatened species reported in the BAR nor recorded during a brief site inspection by Council's Biodiversity Planner. A search of NSW Bionet database of threatened species (listed under the BC Act) in BAR returned no threatened species records on the site.

Remnant vegetation to the east of the site is not considered Preferred Koala Habitat as categorised by the *Tweed Coast Koala Habitat Study 2011*. Two (2) Preferred Koala Food Trees ('PKFT') were identified within the proposed development envelope – *Eucalyptus patentinervis* (T195 – proposed to be removed) and *Eucalyptus tereticornis* (Forest Red Gum) (T106 - to be retained and protected). There are no units of mapped remnant vegetation within the development envelope. The site is identified within a Regional Wildlife Corridor (Scotts, 2003), with focal species comprising the Common Blossom-bat and Northern Long-eared Bat.

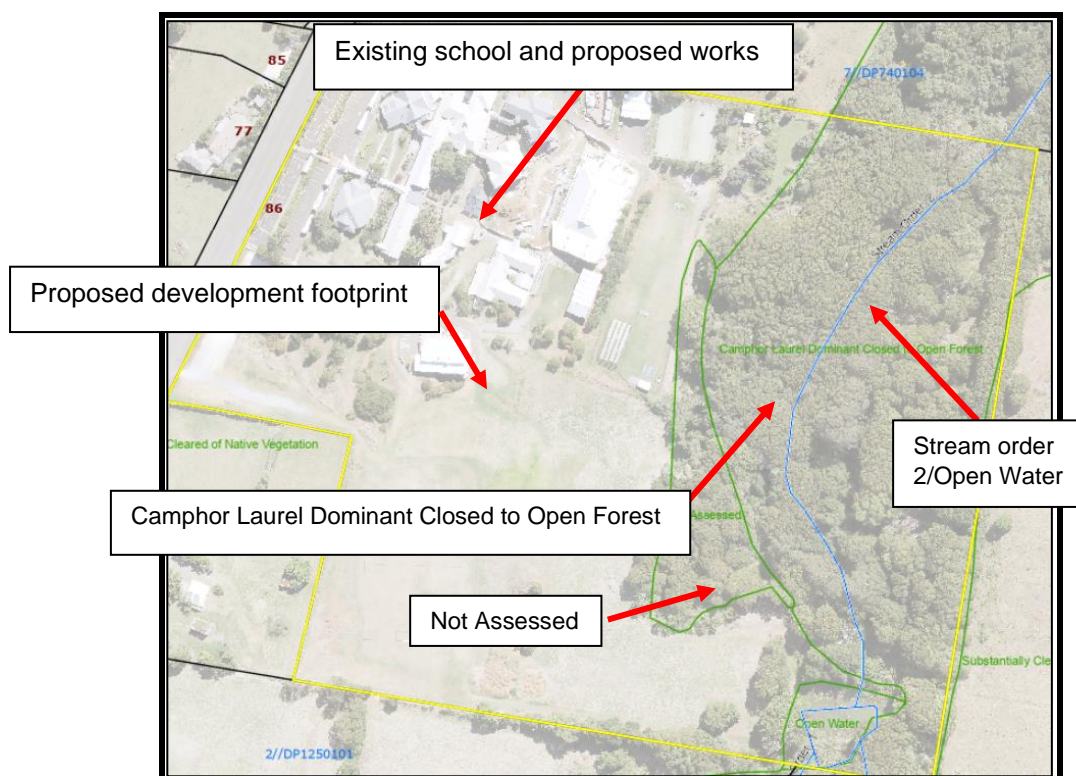


Figure 32: Tweed Vegetation Mapping Strategy (Source: Council Ecology referral)

Vegetation on the site and immediately adjacent is described in the BAR as comprising a mix of maintained lawn, overgrown weedy grassland (a highly disturbed area dominated by exotic grasses particularly bana grass), landscaping, Camphor Laurel Dominant Closed to Open Forest and planted Eucalyptus clusters (**Figure 33**).

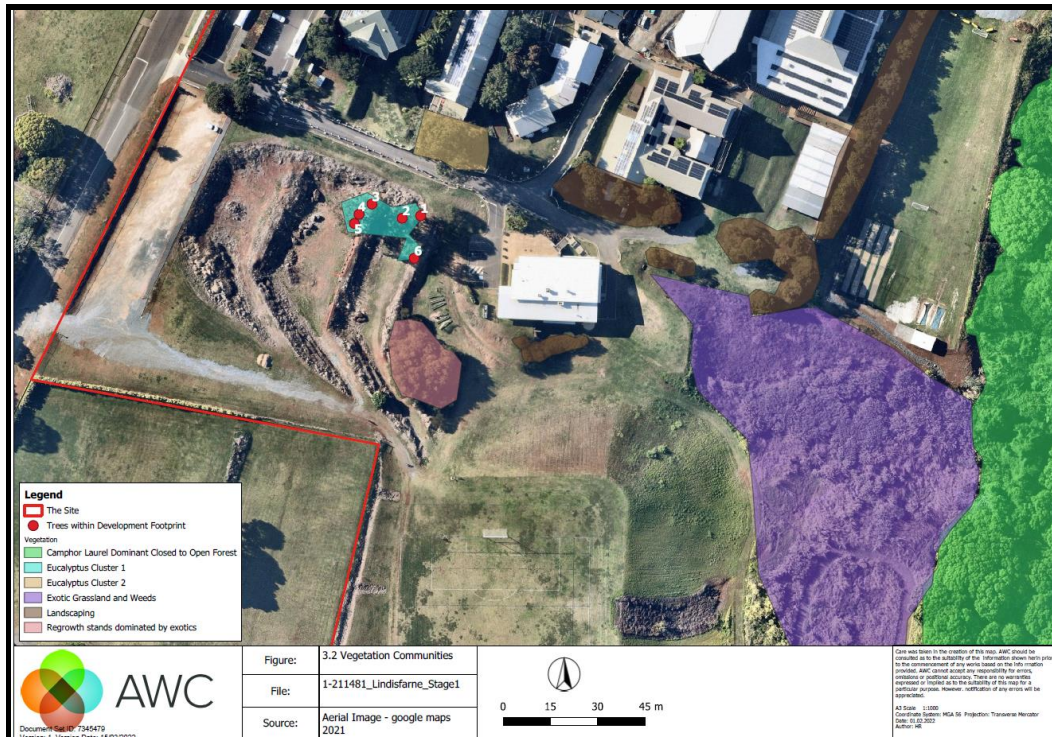


Figure 33: Vegetation Communities (Source: BAR, Australian Wetlands Consulting Pty Ltd, February 2022)

The following matters require consideration in relation to potential ecological impacts arising from the proposal:

- Potential impact on the Koala
- Provision of an Asset Protection Zone ('APZ')
- Tree Removal

These issues are considered below.

Potential Impact on the Koala

The TCCKPoM applies to the site pursuant to Chapter 4 (Koala Habitat Protection 2021) of the Biodiversity & Conservation SEPP. Section 4.8 of the SEPP requires that Council's determination of the development application must be consistent with the approved koala plan of management that applies to the land. The site occurs within the Tweed Heads Koala Management Area, however, does not occur within a Koala Activity Precinct or Koala Linkage Precinct.

The development assessment provisions of the TCCKPoM are dependent on the scale or type of development, where it is on the Tweed Coast and whether or not koalas are present on the site. Figure 3 of the Plan sets out the development assessment pathway, which for the proposal provided the following conclusions:

- The development requires development consent and is not complying development;
- There is not an approved site-specific KPOM for the site;
- The development is not for public infrastructure, minor development, temporary development or large-scale development in the future urban footprint;
- The development is not in a Koala Activity Precinct or Koala Linkage Precinct;

- There is no evidence of koalas on the site as outlined in the BAR, which was also observed by Council's Biodiversity Planner during their brief site inspection. Koala records within the locality retrieved from the Tweed Atlas of Living Australia Koala Project database do not show any koala records.

The assessment pathway is that there are no further provisions of Part 5 which apply, however, offset provisions may apply for any vegetation clearing. The proposal involves the removal of several trees from the site, including one (1) PKFT – *Eucalyptus patentinervis* (Tree T195), therefore an assessment for offset planting was required.

Section 5.9 of the TCCKPoM provides controls for koala habitat protection and restoration to ensure that new development positively contributes to the retention, protection, restoration and ongoing management of koala habitat consistent with the planning intent for the relevant Koala Management Area. Section 5.9.2(iii) applies in this case, which states (emphasis added):

For Development Proposals not referred to in (i) or (ii) above (i.e. not in a KAP or KLP and no koalas present), the proposed removal of Preferred Koala Food Trees or Preferred Koala Habitat, shall be assessed on a case by case basis and if permitted will be conditioned, to offset the loss, in accordance with the Offset Requirements detailed in Appendix C.

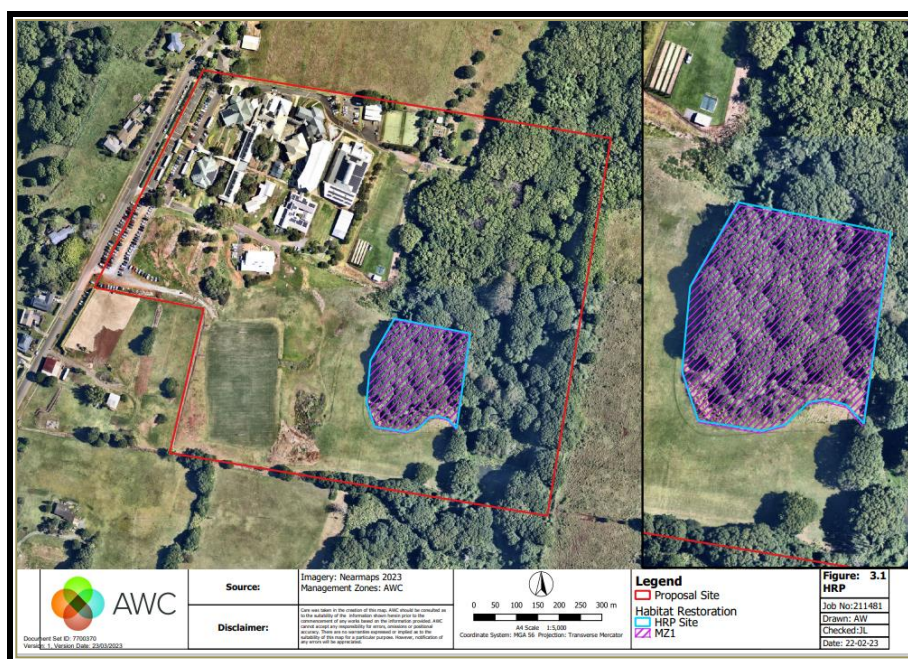
Accordingly, the applicant provided a *Habitat Restoration Plan* prepared by Australian Wetlands Consulting Pty Ltd dated 23 February 2023 ('HRP'). The HRP aims to support the results of the BAR for the site and provides for the offsetting location for the removal of trees, including one PKFT, a Forest Red Gum (*Eucalyptus tereticornis*) within the proposed development footprint.

The HRP includes compensatory planting of 12 Preferred Koala Food trees (*Eucalyptus tereticornis*) consistent with the preferred koala trees outlined in the TCCKPoM, within a nominated habitat restoration area. This number of trees as offset planting is consistent with Table 2 Offset Pathway in the TCCKPoM (1:12 ratio onsite). To offset the removal of the other trees within the development footprint, 15 trees are proposed to be planted at a ratio of 1:3.

The offset area comprises a Management Zone ('MZ'), consisting of an area of 9,000 square metres within an area in the Camphor Laurel Dominant Closed to Open Forest to the east of the proposed development footprint. A commitment has been provided to a 5 year management period. The MZ is based on vegetation composition, spatial considerations, topography and future ecological value (refer **Figure 34**) and currently comprises a dense canopy layer consisting of priority weed and exotic species with a degraded mid and ground stratum.

The HRP outlines that management of large priority weeds, vines, and any other exotic species identified will be undertaken across the offset site to enhance the ecological values of the site. Such works are proposed in the 7(d) land and are permissible with consent.

Council's Biodiversity Planner reviewed the proposal and considered that the nominated habitat restoration area to offset the loss of 1 PKFT, is consistent with the TCCKPoM (Table 2 Offset Pathway) and that the selected offset receiving site/habitat restoration area is of sufficient area to accommodate the PKFT plantings. The commitment to a 5 year management period is considered to be sufficient to successfully establish the compensatory trees.



The proposal conforms to the TCCKPoM and Council's Biodiversity Planner recommended a condition is to be imposed to secure the nominated offset area under an 88B positive covenant/restriction on use, to afford long-term protection of the compensatory plantings consistent with the Appendix C – Offset provisions terms. This requirement is included in the recommended conditions of consent.

Accordingly, it is considered that the proposal is consistent with the TCKPoM and therefore any determination of the development application will be consistent with the approved koala plan of management that applies to the land (subject to the recommended conditions), complying with Section 4.8 of the Biodiversity & Conservation SEPP.

Provision of an Asset Protection Zone ('APZ')

Council's Biodiversity Planner has reviewed the proposed APZ and concluded that there is no existing native vegetation removal anticipated for bushfire mitigation purposes (**Figure 35**). Accordingly, there are no objections on ecological grounds to the proposal in relation to proposed bushfire mitigation measures.

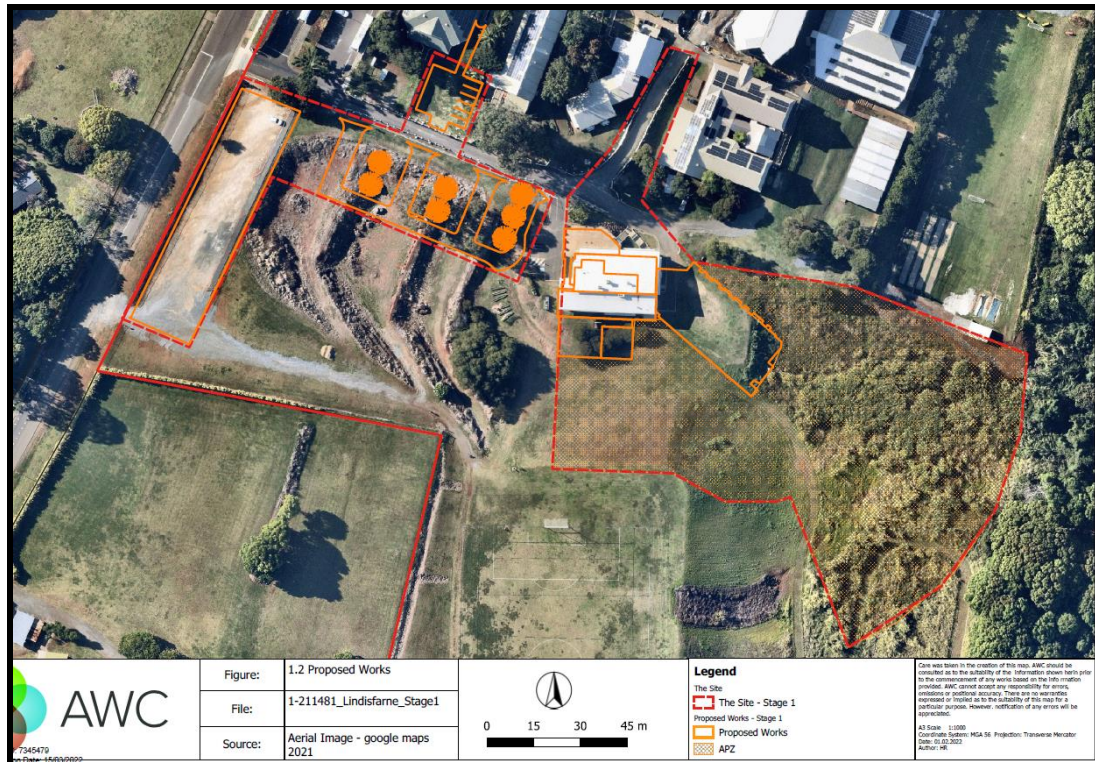


Figure 35: Proposed APZ (Source: BAR, Australian Wetlands Consulting Pty Ltd, Feb 2022)

Tree Removal

The revised *Arboricultural Impact Assessment* prepared by North Coast Specialist Arbor dated 16 March 2023 ('Arborist's Report') has considered the existing trees on the site in the vicinity of the proposed works and provided specific tree data for the trees that will be impacted. Advice on tree protection fencing to preserve and manage the health of the retained trees during development phase and recommendations for the removal of specific trees have been provided. Council's Biodiversity planner initially raised concerns with the tree removal plan and initial Arborist's Report, however, these concerns have now been addressed.

The following are the main conclusions from the Arborist's report (refer to **Figure 36**):

- Tree group 2 – comprises a stand of native *Acacia melanoxylon* (Blackwood) ranging in height from 5 to 15 metres, growing in a gully in a tight group within an area of approximately 25m x 10m. All of the trees were in excellent health and condition and are to be retained.
- Eucalyptus Cluster 2 (Trees T101-T111) - All these trees are native Eucalypts of various species, all in good health and condition and growing together symbiotically in a group. These trees are to be retained.
- Tree Group 3 (Trees T195-T200) - comprising six (6) native trees which were all in good health and condition for their age and location, including a koala feed tree (T195 - *Eucalyptus robusta x tereticornis* (*Eucalyptus patentinervis*)). Trees T196-198 are *Eucalyptus major* (Grey Gum), and trees T199-200 are *Eucalyptus blakelyi* (Blakely's red Gum). These trees are proposed to be removed as they are in the footprint of the proposed car parking area to the south of the main internal access road.

- Trees T114-115 both comprise a *Pinus patula* (Weeping Mexican Pine) and are both healthy trees growing on the southern side of the main access road to the existing Trade Training Kitchen building. Both of these trees are proposed to be removed as they will have their Structural Root Zones (SRZ) compromised by the proposed new car parking area adjoining Mahers Lane.
- Tree T116 *Araucaria cunninghamii* (Hoop Pine) is a healthy, mature tree growing within 3 metres of the bus driveway, adjacent to Mahers Lane. This Tree is to be retained as it will not be impacted during the development.
- Protection measures and TPZ fencing for Eucalyptus Cluster 2, Tree Group 2 and trees numbered T112, T 1113 and T 116 are recommended.
- The replanting (offset) guide for the removal of the 6 x Eucalyptus species trees are addressed in the *Habitat Restoration Plan*.



Figure 36: Site Map for Tree Removal (Source: Arborist Report)

The conclusions of the Arborist's Report (**Figure 37**) are supported. While the proposal involves the removal of eight (8) trees, compensatory planting is proposed in the HRP within a habitat restoration area which is considered satisfactory. Council's Biodiversity Planner considers the proposal is satisfactory in relation to ecological impacts subject to conditions which are included in the recommended conditions.

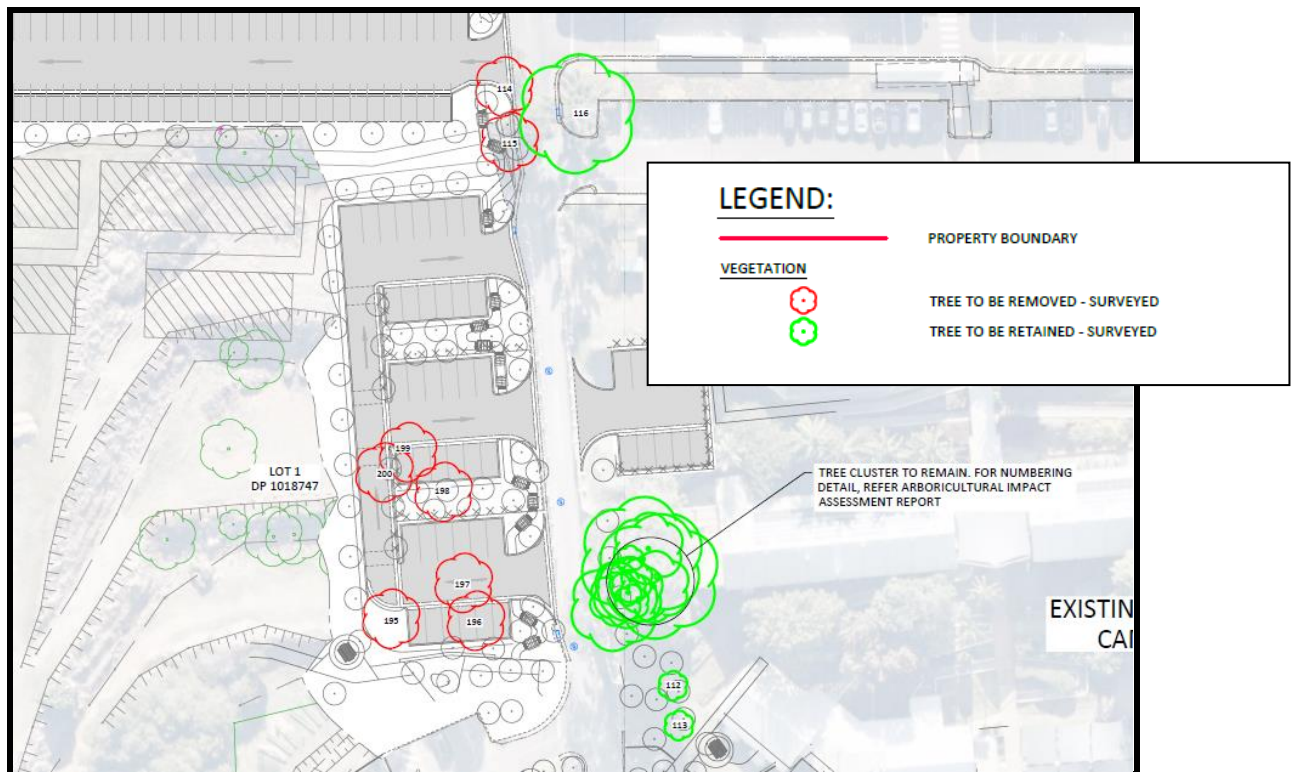


Figure 37: Proposed Tree Removal Plan (Source: NDC, 23 February 2023)

5.3 Aboriginal Cultural Heritage

A report has been prepared by the Cultural Heritage Unit ('CHU') of the Tweed Byron Local Aboriginal Land Council (TBLALC), *Site Visit and Cultural heritage Advice Report* dated 8 November 2021 ('Cultural Heritage Report'). The Cultural Heritage Report summarises the findings of a site inspection, desktop analysis, review of the TBLALC CHU databases and records, access to and consultation with Aboriginal community and knowledge holders and informed awareness of Aboriginal history, traditions and lore.

The Council adopted the *Aboriginal Cultural Heritage Management Plan 2018* ('the ACHMP') in July 2018, which is supported by mapping of Aboriginal place of heritage significance and predictive Aboriginal cultural heritage. A small area of "Predictive Aboriginal Cultural heritage" is mapped in the north-east corner of the site under the ACHMP (**Figure 38**). The remainder of the site is not mapped under the ACHMP.

The proposed works are not located in that portion of the site mapped as Predictive Aboriginal Cultural heritage. The AHIMS database records a number of registered sites around, but not within, the site, generally located to the south and east of the site, along the Tweed River and inlets, being resource rich and environmentally abundant environments.

Aboriginal Places of Heritage Significance are mapped on the Aboriginal Cultural Heritage Map adopted by Council as part of the ACHMP and therefore Clause 5.10(8) is satisfied in that the site does not contain any such places impacted by the proposed development.

The recommendations of the Cultural Heritage Report included:

- *TBLALC has reviewed the proposal against its Aboriginal cultural heritage*

mapping database and cultural knowledge, undertaken a site visit and based on this, considers that there is only a low likelihood of Aboriginal heritage Objects or materials being encountered in the course of the proposed works.

- At this stage TBLALC does not consider it necessary to engage an archaeologist for further assessment.
- TBLALC recommends that any approval include a condition advising the applicant of their stop work responsibilities should any cultural material be revealed as part of the development works.

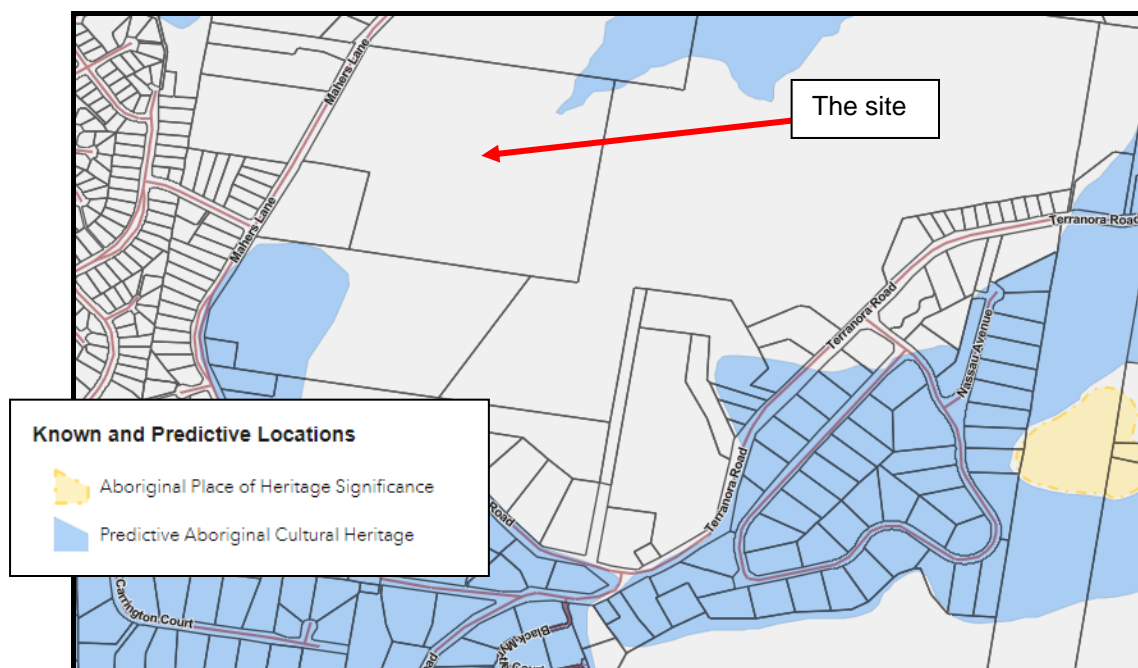


Figure 38: Aboriginal Cultural Heritage Management Plan (Source: Tweed Shire Council mapping system)

Accordingly, the proposal is considered satisfactory having regard to Aboriginal cultural heritage subject to conditions of consent requiring work to cease if any cultural material is revealed as part of the development works. The relevant conditions are included in the recommended consent conditions.

5.4 Services

Water and Sewer Services

The existing water and sewer services available on the site were considered in the *Hydraulic Services Report* prepared by Compass Consulting Group (undated). This original report stated the following in relation to the existing services on the site:

- The existing sewerage system consists of numerous sewer pump chambers that receive the gravity drainage from buildings adjacent and pump to a master pump chamber. The master pump chamber is centrally located and discharges to the council sewer via a 100mm rising main. The rising main runs beside the pedestrian access path up to Mahers lane and runs south, discharging to the council sewer main at the intersection of Eaglemont Drive & Mahers Lane.
- In a previous hydraulic report, it was noted that the existing master sewer chamber

had reached its capacity limit and it was recommended that a new master pump chamber be established in the next stage of works.

- The existing water connection to the site is from the 100mm council water main in Mahers Lane. The site water meter and fire hydrant booster are located beside the main entry to the site. A Fire Engineering report prepared by Dolphin Fire Engineering Consultants states the fire hydrants in the year 7/8 building do not achieve the required 20L/s @ 250kPa and was recommended to install a fire pump for the school in the next stage of works.
- The existing grease traps will require review and inspection to determine their volume and confirm if they are still in an acceptable condition. A new grease trap will most likely be required for the food technology classrooms. The grease trap would be ideally located as close as practical to the classrooms in a location that will enable pump out.

There were several concerns raised by Council's Water and Wastewater Unit in relation to water servicing and sewerage servicing, which were included in Council's RFI issued in November 2022. The following was requested:

- Amended design plan, and reporting implementing alternative methods of achieving the required firefighting requirements for the Educational Facility with the available fire flow of 11 L/s.
- the proposal will require approval for the proposed new master pump station and potentially modifications to the existing sewer pump stations.

A revised Hydraulic Services Report dated 23 February 2023 was provided and was reviewed by Council's Water and Wastewater Unit, which concluded that this revised information was satisfactory and considered that it addressed all of the water and sewerage servicing concerns subject to conditions of consent. These conditions have been included in the recommended consent conditions.

Stormwater

The Engineering Services Report prepared by Newton Denny Chapelle dated 18 February 2022 ('Engineering Report') outlines the proposed stormwater management arrangements for the site (**Figure 39**). The Class 2 watercourse along the eastern side of the site has been identified as the lawful point of discharge, with the site generally draining into this watercourse.

The proposal provides four (4) new 22.5kl attenuation tanks located on the southern side of the building (one in the undercroft area of the extension to the trade kitchen building) as well as the retention of an existing tank adjoining the trade kitchen building. It is proposed to over attenuate the new roof area to allow the new carpark area to bypass attenuation. Council's Infrastructure Engineer stated that on-site detention is not required due to the sufficient capacity of the downstream drainage system and wetlands.

Section B24 of the TDCP 2008 identifies an environmental protection riparian corridor extending north through the site to the wetlands at Trutes Bay (the 7(d) land). In relation to stormwater quality, an GPT/oil and sediment separator is proposed prior to the existing outlet headwall and drainage channel. Council's Infrastructure Engineer reviewed this aspect and noted that the stormwater infrastructure is existing and the proposed measures are a retrofit to establish water quality targets required by Development Design Specification D7. Council considers that the detailed design can be provided at the Section 68 stage.

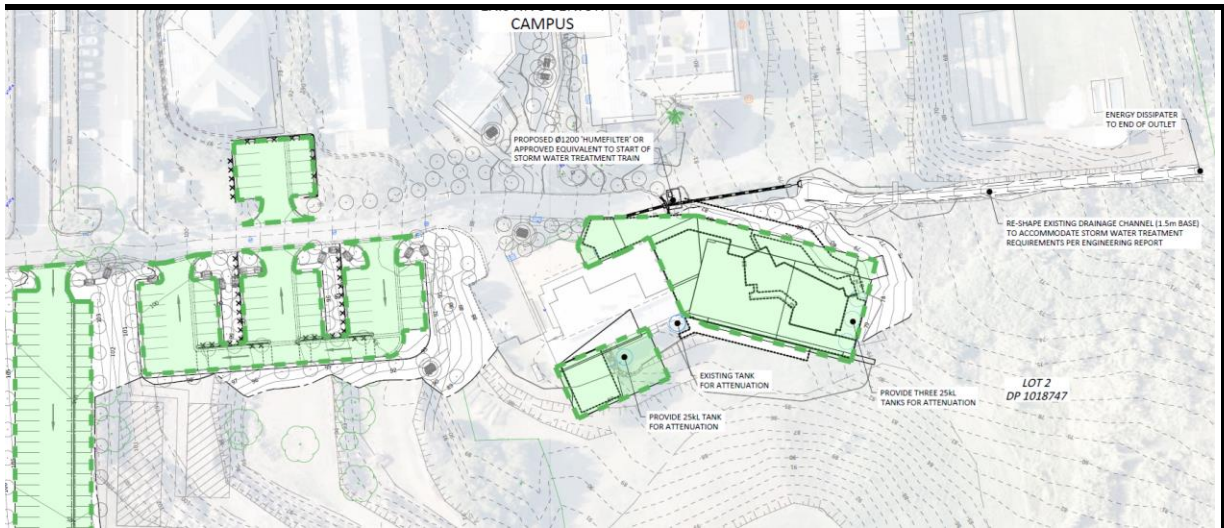


Figure 39: Proposed stormwater Quantity and Quality Measures (Source: Engineering Plans Rev B, NDC, February 2023)

The stormwater swale is also proposed to be lined with an infiltration rock base up to 150m², which will assist in minimising erosion and provide voids for water to infiltrate.

Clause 7.6(3) of the TLEP 2014 states the following in relation to stormwater management:

Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—

- (a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and*
- (b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and*
- (c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.*

The proposal includes significant areas of permeable surfaces which will allow for the on-site infiltration of water, consistent with the first test of satisfaction (a). The proposal includes the use of rainwater tanks on the site which can be used for irrigation of the school grounds, meeting the second test of satisfaction (b).

In relation to the test in (c), the proposed stormwater management plan for the site includes the provision of a GPT/oil and sediment separator prior to the existing outlet headwall and drainage channel which will reduce potential impacts on the receiving waters within the 7(d) portion of the site. Council's Infrastructure Engineer supports the proposed stormwater management arrangements for the site subject to relevant conditions of consent which have been included in the recommended conditions.

Accordingly, it is considered that the proposal has satisfactorily addressed the matters in Clause 7.6(3) of the TLEP 2014 and therefore consent can be granted in relation to stormwater management. Council's Infrastructure Engineer considers the proposed stormwater arrangements are satisfactory subject to conditions which have been included in the recommended conditions.

5.5 Earthworks

The Engineering Report outlines the proposed earthworks will comprise two (2) distinct areas, consisting of the proposed area for the new buildings and the carpark. A *Geotechnical Report* has also been prepared to support the proposed earthworks by Soil Surveys dated June 2019 ('the Geotechnical Report').

The Geotechnical Report considered cuts up to 6 metres and fill to 6 metres (**Figure 40**). Subsurface conditions in the location of the proposed new building (Seniors Centre) were investigated by drilling and sampling boreholes to depths of between 0.5 metre and 6 metres as well as dynamic cone penetrometer (DCP) tests were carried out. Groundwater was not encountered at the borehole locations at the time of the investigation. The areas of cut and fill are considered below.

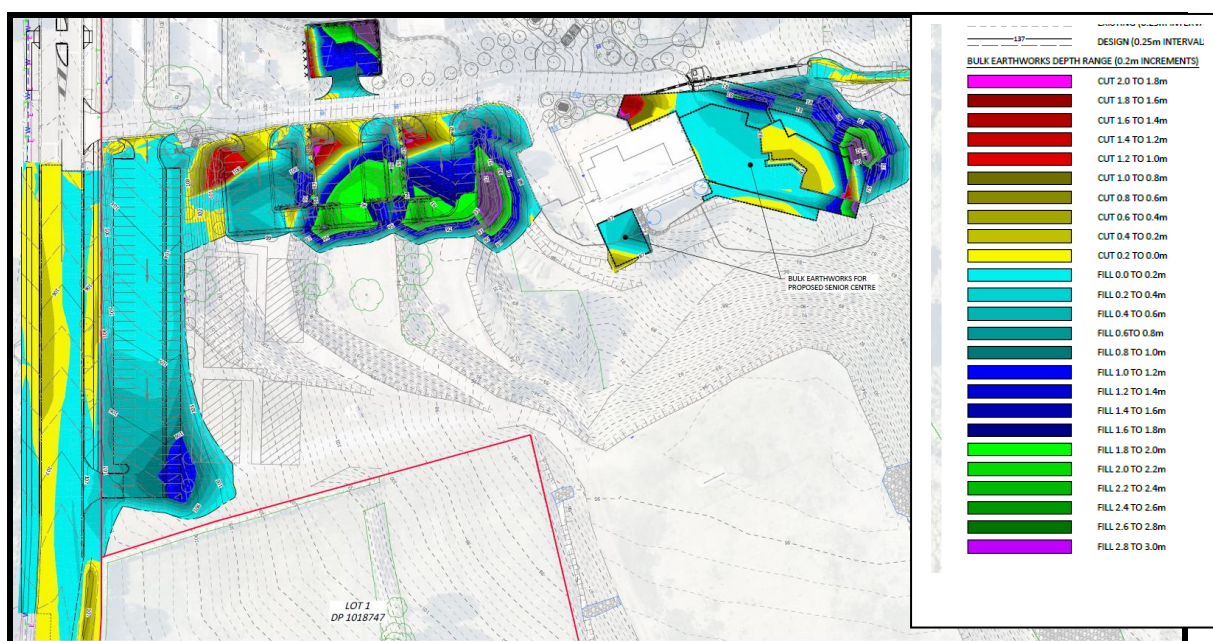


Figure 40: Proposed Cut and Fill (Source: Revised Engineering Plans, NDC, 23 February 2023)

Car Park Areas

There are three (3) new car parking areas proposed in this application, with two (2) of these areas proposed on the steeper parts of the site and which have been previously shaped into terraces. These areas are currently used for informal parking (**Figure 41**). The proposed development involves the construction of car parking areas in this portion of the site, comprising 38 parking spaces on the southern side and 10 parking spaces on the northern side, both with direct access to the internal road.

Retaining walls up to a maximum of 2 metres are proposed between each level of the car parking area (to follow the current terracing). A retaining wall of a maximum of two (2) metres is also proposed around the proposed 10 space- car parking area on the northern side of the existing internal road. A maximum cut of 1.8 metres and fill of 3 metres is expected in this area (in small areas).

The car parking area proposed along the Mahers Lane boundary is currently an informal car parking area, with an unsealed surface with no line marking. The proposal involves formalising this area as a car park containing 67 spaces with only minor earthworks proposed.

Earthworks are proposed around the senior school extension to provide a level building footprint for use by the School as well as access areas. It is anticipated that the fill will be up to a maximum of 3 metres above the existing ground level (at the eastern corner of the building) given the land slopes down significantly at this point (**Figure 42**). The Engineering Report states that it is expected that approximately 3,430m³ of material will be required to be imported to the site for the proposed earthworks.



Figure 41: Existing terraced Areas - location of the proposed car parking areas looking south
(Source: Figure 4-1 of the Engineering Report)



Figure 42: Location of Proposed new Building (Source: Geotechnical Report)

The Geotechnical Report outlines an assessment in section 5 which contains recommendations for construction. While it appears the Geotechnical Report included works outside the current proposal (including works to the oval area), it is reflective of the general site conditions and relevant conditions of consent are recommended to be imposed which requires compliance with the recommendations of the Geotechnical Report and relevant geotechnical supervision of the works.

Specifically, the Geotechnical Report considered that a Geotechnical Engineer is engaged during the detailed design to assess the stability of the proposed earthworks and coordinate with the Structural Engineer in the footing design. This condition is included in the recommended conditions.

Clause 7.2(3) requires consideration of certain matters before granting consent for earthworks, which are considered below:

- (a) *the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*

Comment: The proposed earthworks are unlikely to adversely impact on drainage patterns or soil stability given the excavation and fill activity is confined to the proposed building footprint and carpark areas and the proposed stormwater management arrangements are satisfactory.

- (b) *the effect of the development on the likely future use or redevelopment of the land,*

Comment: The proposed earthworks are required to provide a level building footprint for the proposed classrooms and carpark areas. These proposed earthworks will not adversely impact on the future use or redevelopment of the land.

- (c) *the quality of the fill or the soil to be excavated, or both,*

Comment: Relevant conditions have been recommended requiring only clean fill material to be used on the site.

- (d) *the effect of the development on the existing and likely amenity of adjoining properties,*

Comment: The site slopes down towards the watercourse and retained vegetation along the eastern side of the site and accordingly, adjoining properties will not be adversely affected by the proposed earthworks.

- (e) *the source of any fill material and the destination of any excavated material,*

Comment: As outlined above, relevant conditions have been recommended requiring only clean fill material to be used on the site. The excavated material will be utilised on-site as part of the fill areas for the proposal.

- (f) *the likelihood of disturbing relics,*

Comment: As outlined above, it is unlikely that any relics will be disturbed as a result of the proposed works. In the event that material is discovered, works will need to cease to allow further investigation and assessment as outlined in the recommended consent conditions.

- (g) *the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*

Comment: The proposal is located in close proximity to deferred land zoned 7(d) under the TLEP 2000 as considered above in Section 3(vii) of this report. It is considered that there will be no adverse impacts arising from the proposed works on the environmentally sensitive area or the associated watercourse.

- (h) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development,*

Comment: The proposed stormwater management arrangements, including the GPT/oil and sediment separator which is proposed prior to the existing outlet headwall and drainage channel which will ensure there are minimal impacts arising from the development on the adjoining the environmentally sensitive area or the associated watercourse as well as adjoining properties.

- (i) *the proximity to, and potential for adverse impacts on, any heritage item, archaeological site, or heritage conservation area.*

Comment: There are no heritage items in the vicinity of the site or any Aboriginal cultural heritage items or places (as considered above).

The proposed earthworks are satisfactory and it is considered that the proposal is satisfactory having regard to the matters required to be considered before granting consent pursuant to Clause 7.2(3) of the TLEP 2014. Accordingly, consent can be granted to the proposed earthworks.

5.6 Building Form

The design of the proposed new buildings has been considered in the design quality principles pursuant to Section 3.36(6) of the Transport & Infrastructure SEPP and outlined in Table 6 of this report.

The proposed new buildings have been designed to be a good contextual fit in the portion of the site where they are proposed and will enhance the appearance of the school. The proposed new buildings are compatible with the contemporary approach buildings constructed in 2020/21 and provide the relevant facilities such as pedestrian access and car parking.

The proposed landscaping on the site also allows for the integration of the proposed new buildings into the existing school and complements the building design. A green spine connects the existing campus with the new facility. This green connection allows for intermediate seating nooks and outdoor seating. The landscaping and pathways connect all of the elements of the school together and providing for a good level of access around the site for staff and students. The expansive outdoor areas and large veranda allows for outdoor learning opportunities.

The proposed building forms are acceptable and appropriate for the site.

5.7 Safety, Security and Crime Prevention

Crime Prevention through Environmental Design ('CPTED') is a crime prevention strategy that focuses on the planning, design and structure of cities and neighbourhoods. CPTED has been considered in the design of the proposal (**Figure 43**), which employs four (4) key strategies to reduce opportunities for crime. These strategies are considered below for the proposal.

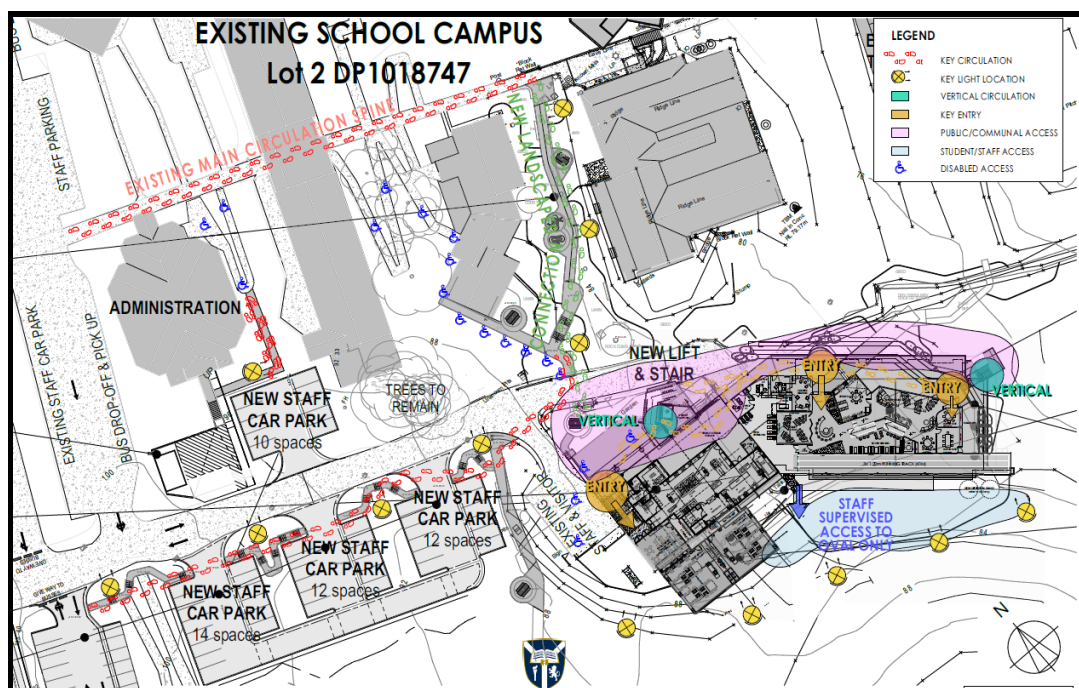


Figure 43: CPTED Plan (Source: Raunik, 8 May 2023)

- Territorial Re-enforcement – The school grounds are well maintained and the staff and students can easily connect with this space. The school appears to encourage communal responsibility for public areas and facilities, given the high standard in which they are maintained, which contributes to ownership and safety.
- Surveillance – There is significant natural surveillance throughout the site, with the Administration building located at the entry to the site and open vistas throughout the site to allow for areas to be overlooked by staff. The steep slopes within the site allow for overlooking throughout the spaces between buildings (**Figure 44**). Lighting is also provided which assists with safety and surveillance.



Figure 44: Topography assist with surveillance

- Access Control - A good level of access controls is provided on the site as shown in the various pedestrian pathways and signage throughout the school, which channels and encourages people and vehicles into, out of and around the development. The hedge planting along the frontage provides visual cues that the site has restricted entry.
- Space/Activity Management – The school is staffed to an appropriate degree to ensure space and activity management is supervised.

The proposal is considered to be satisfactory having regard to the CPTED principles.

5.8 Noise

A *Construction Noise & Vibration & Assessment & Operational Noise Assessment* prepared by Tim Fitzroy & Associates dated 8 March 2023 ('the Acoustic Report') assessed the potential noise impacts due to the construction of the new buildings and proposed car parks as well as the operational noise assessment from the use of the proposed buildings and carpark and Bus Pickup/Drop off area. The Acoustic Report concluded:

Construction noise:

- Emissions from a worst-case 15-minutes of continuous heavy machinery operation are predicted to exceed the noise criterion at the closest affected dwellings by up to 24 dB(A).
- Construction activities are expected to be highly variable, and average noise levels over the whole daytime period are expected to be significantly less than the predicted worst-case.
- Site specific buffer distances for vibration significant plant items should be measured on site. It is recommended that any required site-specific buffer distances for vibration significant plant items (e.g., vibratory rollers, compactors) be determined on site where works are within 10- 15 m from a building or structure.
- For any residences located in close proximity to any such works, more accurate buffer distances should be determined on site by measuring vibration emission levels from each plant item prior to its operation or alternative construction methods and equipment are to be used.

Construction noise and vibration impacts are short term and relevant conditions have been recommended to ensure noise and vibration are minimised during construction.

Operational noise:

- Noise emissions during a peak hour of vehicle movements are currently predicted to exceed the daytime criteria by up to 11 dB(A) at the closest dwellings, based on the 2019 scenario
- Noise emissions are expected to increase by 3-4 dB(A) at most nearby receptors by 2023 due to the increased student enrolments and associated vehicle movements
- A higher increase of 7dBA is predicted at R28 which is due to the direct line-of sight to one or more of the PA speakers. Although the increase in noise level at R28 is the highest predicted, the overall level is within criteria in both the 2019 and 2023 scenarios.
- The predicted increase in noise level represents school traffic only, and noise from existing traffic on nearby roads may affect the significance of the predicted increase.

- Noise levels from the expected sources associated with the operation of the Senior Centre and Food Tech buildings are predicted to comply with the daytime noise criteria.

Council's Environmental Health Officer has reviewed the Acoustic Report and raises no objections subject to conditions including limiting construction hours and the use shall be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust, odours, or the like, among other conditions. The requested conditions have been included in the recommended conditions.

6. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application can be supported subject to the recommended conditions.

The key issues of traffic, access and car parking, ecological issues the provision of services, earthworks and noise have been considered in detail in this report and found to be satisfactory subject to the recommended conditions of consent. Similarly, the other issues including building form, Aboriginal cultural heritage, and safety, security and crime prevention matters, are resolved subject to the recommended consent conditions.

It is considered that the key issues as outlined in Section 5 have been resolved satisfactorily through amendments to the proposal and/or in the recommended draft conditions at **Attachment A**.

7. RECOMMENDATION

That the Development Application DA No 22_0152 for alterations and additions to an existing school comprising a senior student centre, new food technology classrooms, increase in student and staff numbers, earthworks, tree removal, pathways, services and additional car parking and vehicular access at 86 Mahers Lane Terranora be APPROVED subject to a deferred commencement consent pursuant to Section 4.16(3) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent attached to this report at Attachment A.

The following attachments are provided:

- **Attachment A:** Draft Conditions of consent