

## PPSNTH-2020 Supplementary Report

### Comments re changes to conditions

The following comments have been made by the applicant on review of the draft conditions:

Condition	Comment / suggested amendment
Condition 9	<p>The condition requiring the installation of CCTV is seen as excessive. It seems that the condition as currently drafted is providing solutions to mitigate crime risk that may not necessarily be apparent. Can the condition please be amended to read as follows:</p> <p><i>Prior to the issue of a Construction Certificate, a Crime Prevention Through Environmental Design Report that is prepared in accordance with the NSW Police 'Safer by Design' guidelines is to be submitted to Council for approval. Measures identified in the Crime Prevention Through Environmental Design Report are to be implemented.</i></p> <p>Comment: The amendment to the condition is supported.</p>
Condition 39	<p>Suggestion: Including the word "outdoor" in this condition as it is relating to exterior lighting (as added below).</p> <p>Any exterior lighting on the site shall be designed and installed so as not to cause a nuisance or adverse impact on the amenity of the surrounding area by light overspill. The lighting shall be the minimum level of illumination necessary for safe operation and must be designed, installed and used in accordance with AS 4282 control of the obtrusive effects of outdoor lighting. No flashing, moving or intermittent <b>outdoor</b> lighting is permitted on the site.</p> <p>Comment: The amendment to the condition is supported.</p>
Condition 42	<p>This condition is a repeat of condition 39 and should be deleted.</p> <p>Comment: Agree – deleted.</p>
Condition 44 (Now condition 43)	<p>This condition seems restrictive to the operations of the Rowing Club. On club days, rowing and other events, there might be functions that require times past this point. We note that the adjacent Crown Hotel closes anywhere between 10:30pm – 12:00am or later during the week and on weekends. We believe that this condition should be consistent with the operating hours of other services in close proximity within the zone, i.e. the Crown Hotel and consider that this development will have the capacity to hold future events such as New Years Eve functions. We suggest that this condition be amended to:</p> <p><i>Any ancillary events for the Rowing Club facility are to cease by 11.30pm any day of the week, except for 6 days per year when the activities are to cease by 1AM.</i></p>

	<p>Comment: There have been questions raised about this condition by the Panel members in regard to whether the condition is restrictive and what was meant by ancillary. The use of the rowing club shed is described under the lease issued by Council as Crown Land Manager for the reserve and is for a 'Rowing Club Shed'. The reserve is dedicated for the purpose of 'Public Recreation' and operates under a Grafton Waterfront Precinct Plan of Management (PoM). Table 6.1 of the PoM lists the purposes for which long-term leases, licences and other estates may be granted. There are no other approved uses of the building and the current use of the building would otherwise be those consistent with the PoM and those specified in the lease issued for the rowing club. It is acknowledged that a new lease will be required to be issued for the re-developed rowing club building which will specify the approved use/s as agreed under the terms of the lease. The definitions of 'ancillary', 'boat shed' and 'community facility' have been included in an amended condition.</p>
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Comments are provided following the submission of the draft attachments from the Panel and from the Applicant – the recommended changes have been these are addressed below.

<b>Condition</b>	<b>Commet</b>
Condition 1	<p>delete "being generally" in 3rd line 1st para, C1 - delete "generally" in first line page 2,</p> <p>insert "In the event of any inconsistency between the approved plans and supporting documents the conditions prevail to the extent of the inconsistency"</p>
Condition 9	<p>Amended as agreed with applicant:</p> <p><i>'Prior to the issue of a Construction Certificate, a Crime Prevention Through Environmental Design Report that is prepared in accordance with the NSW Police 'Safer by Design' guidelines is to be submitted to Council for approval. Measures identified in the Crime Prevention Through Environmental Design Report are to be implemented.'</i></p>
Condition 10	inserted " 's heritage officer" after Council...
Condition 12	amend to read "Prior to issue of the Construction Certificate..."
Condition 17 <i>temporary perimeter fencing to be included?</i>	Comment: temporary perimeter fencing during construction – requirements in Condition 26.
Conditions 28 & 39 <i>Any inconsistencies?</i>	<p>Comment: Condition 28 &amp; 42 reflect different lighting standards</p> <p>C28: obtrusive effects within tolerable levels C42: energy consumption and minimum safe lighting for public areas).</p> <p>It is recommended that they remain unchanged to reflect the different standards.</p>
Condition 32 <i>Flood Action Plan</i>	Amended– include words... to Council 'for approval'...

Condition 41 and Condition 35 <i>Suggest delete C41 or combine with 35?</i>	The conditions each represent different approvals – Trade Waste requirements and NSW Health requirements.  It is recommended that they remain to reflect the different standards.
Condition 42	Duplicate condition has been deleted.
Condition 44 (now 43)	Amended condition has been proposed: <i>'This approval approves the redevelopment of the rowing club shed as defined as a 'Boat Shed' and 'Community Facility'.</i>  <i>Any ancillary events for the Rowing Club shed are to cease by 11.30pm any day of the week except for any activities that are approved separately under the conditions of a lease issued for Reserve 85477 or temporary licence over the reserve under the Crown Land Management Act 2016 or other approved use/s issued under a development approval.</i>  <i>Notes: (An ancillary use is a use that is subordinate or subservient to the Rowing Club shed use. <b>Boat Shed</b> means a building or other structure used for the storage and routine maintenance of a boat or boats and that is associated with a private dwelling or non-profit organisation, and includes any skid used in connection with the building or other structure. <b>Community Facility</b> means a building or place; (a) owned or controlled by a public authority or non-profit community organisation, and (b) used for the physical, social, cultural or intellectual development or welfare of the community, but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation).</i>
Condition 44 <i>Ancillary events not defined</i>	"Ancillary events" defined in condition as shown above.

Further Comments - Council response is requested:

*Consideration to allow the applicant to have bona fide ancillary activities (including occasional third party hire for small functions, which would be a useful revenue raiser for the Club) which are consistent with the characterisation test in Planning Circular PS 21-008. Community facilities are permissible in the zone and allow for activities for "the physical, social, cultural or intellectual development or welfare of the community", much like a community hall, however function centres are not, so it cannot operate as a commercial function venue irrespective of a further DA being lodged.*

Comment: The 'allowable' uses of the facility are outlined in the lease issued for the part of Reserve 85477. Other uses may be permitted subject to the lease and permitted uses outlined in the adopted *Grafton Waterfront Precinct Plan of Management*. Further development approval will be required for any other additional uses though have not been applied for under this application.

*Perhaps the condition could be clearer about what this means when the dominant, approved use remains for the Rowing Club. Council will have to enforce this condition but if it is happy to do so it may not be an issue.*

Comment: Amended wording has been included in Condition 43.

*It seems that there is a more fundamental land use issue in that the current lease, which is included in the portal documents, only allows the site to be used as a 'Rowing Club Shed'. Notwithstanding the intended consent, the lease will surely need amendment to cater for the intended development as it will be more than just a 'shed'. Somewhere in any consent the applicants should be made aware of this and Council satisfied the future use issue has been resolved? If this has already been dealt with, I can't find a reference to it.*

Comment: The use of Grafton Rowing Club shed outside of the primary use (rowing club shed) will need to be consistent with the lease issued by Council as land manager for the facility. No other types of approval have been formally sought by the applicant and additional permitted uses will require further development approval.

*Hours of operation - if 2200 is the finish time what is the start time? Not clear how 2200 was derived or indeed what Council's position on hours of operation for the development as a whole should be. One assumes a rowing club would typically start activity very early indeed (eg dawn). Hours of operation should apply to the use of the site/intended uses as a whole, not just ancillary activity.*

Comment: A finish time only has been recommended as other daytime uses are not perceived to be an issue for the rowing club or adjoining land uses. There is no issue with the use of the rowing club in the early hours of the morning. The hours have been extended to 11.30pm as requested by the applicant and the condition allows for other times as approved separately under the conditions of a lease.

*Building signage - there appears not to be a condition regarding building identification signage. Given the heritage context of the development it would be appropriate to have a condition requiring submission of signage design to Council for approval (in consultation with heritage officer) prior to issue of the Construction Certificate. This could be a new C11 or C10 could have parts (a) and (b).*

*Noted that the SEE (p.35 et seq) refers to building identification signage being required as a painted wall sign (see West Elevation DA-200C), which is addressed at p.14 of the Assessment report under the relevant SEPP. It's bigger than the 2.5m2 usually allowed as exempt development outside conservation areas, however it's integrated into the design for which consent has been sought.*

Comment: Condition 10 has been amended to include '(including the details of the building identification sign)' with the external finishes and colours prior to issue of the Construction Certificate.

*Heritage generally – copy of Council Heritage officer's assessment to be provided. At p.17 of the AR it states:*

*"It is proposed that the recommendations provided in the heritage assessment [listed on that page] be included as conditions of consent." The only relevant condition that has been found is Condition 1 – should the specific issues have been specifically listed. In terms of interpretive materials, the flood prone nature of the site should be considered in the execution of this.*

Comment: Condition 10 and Condition 18 are the proposed draft heritage conditions.

*Applicant review of draft conditions – has this occurred and if so, subject to the above – can the applicant review the any amended conditions?*

Comment: The applicant has reviewed the draft conditions and provided comment.

*How has Climate Change has been considered (which is required to be considered) in the flood impact aspects of the assessment? The submitted risk assessment which is relied upon doesn't seem to mention it other than noting the requirement that it be considered.*

Comment: The upper level of the building will be at 8.3m AHD, the levee wall height is 8.2m AHD. As required by draft condition 3 construction below the levee wall height will be of flood compatible materials. Draft condition 4 requires the submission of a structural engineer's certificate to certify that the existing structure can withstand the likely forces imposed by a flood event.

Current flood modelling from the Clarence Valley Flood mapping shows the 1:100 flood height to be between 8.11 & 8.22m AHD. The upper level will act as additional area as flood refuge. The current flood model has considered sea level rise in the modelled heights. The model that has been adopted by Council forms the basis for establishing flood planning levels (residential floor levels). This is adopted into Council's Development Control Plan and considered by Clarence Valley Council when determining a development applications.

The flood risk management study is under review and will consider sea level rise and climate change impacts. Council will likely consider amending the adopted flood levels when the new modelling is adopted.

*For people with disabilities - is acceptable at grade access to the site from Prince Street with adequate parking for PWD?*

Comment: A BCA compliance report has been submitted with the application which has considered access to the building. The recent upgrade to the waterfront precinct provides an accessible pathway to the building including a zig zag pathway to the footpath to the frontage of the building.

*Where to find references to parking or delivery access issues in the assessment, noting that some additional floor space is proposed and notwithstanding the long term established use on the site?*

Comment: The use of other areas of the reserve are allowed and specified in the lease issued for the rowing club.

Additional recommended conditions provided.

New Condition 12A	<p><i>Rainwater head and downpipes are to be reinstated as per the heritage recommendations. The Stormwater Drainage Plan is to be amended to provided attenuation or control of outlet flows, maintaining the existing outlet points onto the concrete slab. Sufficient detail shall be provided in revised stormwater drainage plans that are to be submitted Council for approval prior the issue of the Construction Certificate.</i></p> <p>Comment: Council's sustainable water controls under the DCP - Clause G2 applies where the cumulative increase in the roofed and/or impervious area is equal to or greater than 150m<sup>2</sup> or is a 50% or greater increase in the roofed and/or impervious area. The increase to impervious area is less than 150m<sup>2</sup> so they do</p>
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	not apply to the proposal. It is proposed that stormwater detention and flow dissipation be provided as a condition of consent to address the point of discharge impacts and provide potential stormwater detention.
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New Condition 17A.	<p><i>The application is to obtain a Controlled Activity Approval under the Water Management Act 2000 for any works that fall outside of the leased area for the Grafton Rowing Club within the reserve. The approval is to be obtained prior to the commencement of any works and comply with the approval requirements at all times.</i></p> <p>Comment: The new front ground level storage areas of 66m<sup>2</sup> footprint of the rowing club will be located outside of the existing footprint leased footprint and will trigger a Controlled Activity Approval requirement (not an exemption under the Water Management Regulation). It is noted that the report to Council to 'support in principle' the redevelopment advises that a new lease will be required. A new lease will amend the footprint accordingly.</p>
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