

**DETERMINATION AND STATEMENT OF REASONS**  
NORTHERN REGIONAL PLANNING PANEL

<b>DATE OF DETERMINATION</b>	24 September 2024
<b>DATE OF PANEL DECISION</b>	23 September 2024
<b>DATE OF PANEL BRIEFING</b>	17 September 2024
<b>PANEL MEMBERS</b>	Dianne Leeson (Chair), Stephen Gow, Michael Wright, Pat Miller and John Byrne
<b>APOLOGIES</b>	Ned Wales
<b>DECLARATIONS OF INTEREST</b>	None

Papers circulated electronically on 9 September 2024.

**MATTER DETERMINED**

PPSNTH-250 – Tweed – DA23/0316 – 90 Phillip Street, Chinderah – Place of public worship, signage and ancillary uses including restaurant or cafe in five (5) stages (as described in Schedule 1).

**PANEL CONSIDERATION AND DECISION**

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

**Development application**

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

**REASONS FOR THE DECISION**

The Panel resolved to approve the Application for the reasons set out in the Assessment Report dated 6 September 2024.

The Panel amended a number of the conditions as set out below, in order to improve consistency in the certification process, consolidate requirements for construction management, remove some typographical errors and to clarify issues such as staging and approved ancillary uses. The condition regarding developer contributions was amended by Council to take account of Council's policy for 40% employment generating activity discount, following submissions by the proponent in response to the draft condition set.

The Panel also imposed a number of conditions in addition to those recommended in the Assessment Report to further mitigate potential adverse impacts of the development. These conditions address the following matters:

- No outdoor use of amplified sound equipment without further reference to Council
- Electric vehicle charging infrastructure
- Stage One requirement to deliver all necessary site infrastructure, habitat restoration and landscape works
- Koala food tree offset planting
- Crime Prevention through Environmental Design requirements
- Phillip Street – auxiliary right turn treatment into the site
- Approved hours of operation

The Panel is satisfied that with the imposition of conditions potential adverse impacts can be adequately mitigated.

The Panel determined the proposed development is in the public interest having positive social, community, environmental and economic benefit through its construction and operation.

## CONDITIONS

The Development Application was approved subject to the conditions in the Council Assessment Report with the following amendments.

- Amend Condition 1 to read as follows:
  1. The development shall be completed in accordance with the Statement of Environmental Effects and Plans and Drawings identified below, except where varied by the conditions of this consent.

Drawing No	Title	Date	Prepared by
DA104A 7	Site Existing – Tree Identification	14.06.2024	Aspect Architecture
DA104B 6	Site Proposed – Vegetation Restoration Zones	25.06.2024	Aspect Architecture
DA104C 6	Landscaping Zoning Plan – Final Stage	14.06.2024	Aspect Architecture
DA106 2	APZ Stage 1 - Masterplan	14.06.2024	Aspect Architecture
DA107A 4	APZ Final Stage - Masterplan	11.06.2024	Aspect Architecture
DA109 3	Site Proposed – Infrastructure & Traffic	11.06.2024	Aspect Architecture
DA110 10	Stage 1 - Masterplan	26.07.2024	Aspect Architecture
DA120 3	Stage 1 – Ground Floor	26.07.2024	Aspect Architecture
DA121 3	Stage 1 – First Floor	26.07.2024	Aspect Architecture
DA130 2	Stage 1 - Sections	25.06.2024	Aspect Architecture
DA140 2	Stage 1 - Elevations	25.06.2024	Aspect Architecture
DA210 13	Final Stage - Masterplan	26.07.2024	Aspect Architecture
DA220 3	Final Stage – Ground Floor	26.07.2024	Aspect Architecture
DA221 3	Final Stage – First Floor	26.07.2024	Aspect Architecture
DA230 2	Final Stage - Sections	25.06.2024	Aspect Architecture
DA240 2	Final Stage - Elevations	25.06.2024	Aspect Architecture
DA300 2	Signage 1 & 2 (As annotated in red by Tweed Shire Council – Sign #1 not approved)	25.06.2024	Aspect Architecture
DA301 2	Signage 3 & 4 (Includes the non-identified G sign adjacent to Signs 3 and 4)	25.6.2024	Aspect Architecture

The development is to be completed in the following stages unless otherwise agreed in writing by the General Manager or delegate:

Stage 1: Construction of the church building, including outdoor promenade, 710 seat auditorium and associated/ancillary services/facilities; accessible toilets, lobby, parents room, ‘welcome’ room, store and garden areas; waste bin enclosures; kids space demountables and associated fenced outdoor play areas; all car parking (including drop-off area and bicycle parking), stormwater infrastructure, water and sewer infrastructure, provision of at least one electric vehicle (EV) charging point, and associated works.

Stage 2: Ground floor toilets, waste area, upper level covered walkway roof, vehicle drop-off area roof and associated works.

Stage 3: Ground and upper floor kids spaces and walkways and associated works.

Stage 4: Ground floor training room, café, kitchen and stores, cleaners store, accessible bathroom, and associated works; upper level youth space, store, toilets and outdoor walkway/balcony and associated works.

Stage 5: Maintenance/storage shed; vertical circulation and associated works.

In the event of any inconsistency between the approved plans and documents, the approved plans prevail.

In the event of any inconsistency between the approved plans and a condition of this consent, the conditions prevail.

- Amend Condition 8 to delete the word 'their' before the word 'delegate' on 2 occasions in the second sentence.
- Amend Condition 16 to insert the word 'must' after the word 'areas'
- Amend Condition 23 to delete the word 'the' and replace with 'Council's' in the second sentence after the words 'satisfaction of'
- Insert new Condition 25 which reads as follows and renumber the remaining conditions accordingly:
  25. Prior to the issue of a Construction Certificate for each stage of the project, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved by the Principal Certifier (Council or a Registered Certifier). The CEMP shall be consistent with the Guideline for the Preparation of Environmental Management Plans (DIPNR, 2004). A copy of the approved plan shall be submitted to Council. The Plan shall address, but not be limited to, the following matters where relevant:
    - a) Hours of work;
    - b) Contact details of site manager;
    - c) Traffic and pedestrian management;
    - d) Noise and vibration management;
    - e) Construction waste management;
    - f) Erosion and sediment control; and,
    - g) Flora and fauna management.

Where construction work is to be undertaken in stages, the Proponent may, subject to agreement with the Principal Certifier (Council or a Registered Certifier), stage the submission of the Construction Environmental Management Plan (CEMP) consistent with the staging of activities relating to that work. The Proponent shall submit a copy of the approved plan to Council.

All works are to be carried out in accordance with the approved plan.

- Amend now Condition 26 (former Condition 25) Section 7.11 Contributions to read as follows:

**26. Section 7.11 Contributions**

Payment of the following contributions pursuant to Section 7.11 of the Act and the relevant Contribution Plan.

A Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 7.11 Contributions have been paid and the Certifying Authority has sighted Council's receipt confirming payment, or confirmation is received that the applicant has entered into a Deferred Payment Agreement under Council's Business Investment Policy

a.	Contribution Plan No 4 - Tweed Road Contribution Plan:	
	113.7 trips @ \$1,640.82 per trip (\$1,137.00 base rate + \$503.82 indexation)	\$107,670.63
	(\$78891 has been subtracted from this total as this development is deemed an "Employment Generating Development")	

	CP04 Road Contributions (6-Kingscliff)	
b.	Contribution Plan No 18 - Council Administration Offices and Technical Support Facilities:	
	0.5697332 ETs @ \$2,849.51 per ET (\$1,759.90 base rate + \$1,089.61 indexation)	\$1,623.46
	CP18 Council Admin Facilities	

- Amend now Condition 27 (former Condition 26) to delete the word 'A' and replace with 'Prior to the issue of a construction certificate, a'
- Delete Condition 32 and renumber the remaining conditions accordingly
- Amend Condition 34 to read as follows:
 

34. Prior to the issue of a construction certificate, details of an appropriate means of rainwater capture/collection and re-use shall be submitted to and approved by Council's General Manager or delegate and thereafter be retained unless otherwise agreed by Council's General Manager or delegate.
- Amend Condition 35 to read as follows:
 

35. Prior to the issue of a construction certificate, an odour and septicity assessment prepared by a suitably qualified consultant shall be submitted to and approved in writing by Council's General Manager or delegate. The assessment is to confirm and ensure design will not produce any nuisance odours or degradation of the sewer system due to septicity.
- Amend Condition 36 to delete the words 'the General' and replace with 'Council's General' in the second sentence
- Amend Condition 37 to insert the words 'for each relevant state' after 'construction certificate' in the first sentence and insert 'Principal' before the word 'Certifier' in the second sentence.
- Amend Condition 39 to delete 'Council reference Document Set ID 8107052' from the first sentence
- Amend Condition 42 to read as follows:
 

42. Prior to the issue of Construction Certificate for the relevant stage of development, and to the satisfaction of the Principal Certifier, the final design details of the southern acoustic fence shall be reviewed by a suitably qualified acoustic consultant to confirm and ensure that all required treatments in the Environmental Noise Impact Report dated 11 July 2024 prepared by CRG Acoustics have been incorporated into the design.
- Amend Condition 43 to delete the words 'the General Manager or delegate' and insert 'the Principal Certifier'
- Amend Condition 44d. to read as follows:
 

44d. Habitat protection and restoration areas require demarcation and/or physical landscape elements to manage access and prevent damage. Details of landscape elements to be provided are to be submitted to and approved in writing by Council's General Manager or delegate and are to relate to the following locations:

  - (i) the interface between the entry road/driveway, car parking and habitat protection and restoration areas; and
  - (ii) the interface between Zone C (asset protection zone/koala habitat offset area) and Zone B (restoration area) as shown in the Habitat Restoration Plan.
- Amend Condition 44f and 44g by inserting the word 'that' after 'Specify'
- Amend Condition 48 to insert the words 'for the relevant state' after 'Construction Certificate' and delete the words 'or Section 138 approval under the Local Government Act 1993'

- Amend Condition 50 formatting by replacing the dot points with lettering a) to e) and subsection numbering under d) to (i) to (iii)
- Amend Condition 54 to read as follows:
 

54. Prior to the issue of a construction certificate for the applicable stage of development, the applicant shall provide full details (including position/location, final size and output) of all roof-mounted solar panels to be installed, as indicated on approved drawing DA110 Issue 10 prepared by Aspect Architecture and dated 26.07.24
- Insert new Condition 55, which reads as follows and renumber the remaining conditions accordingly:
 

55. Prior to the issue of a construction certificate for stage 1 of the development, the applicant shall provide confirmation that provision will be made for the installation of at least one electric vehicle (EV) charging point, including details of the required electrical capacity and the location of the charging point(s).
- Insert new Condition 66, which reads as follows and renumber the remaining conditions accordingly:
 

66. The provision of 193 off street car parking spaces including parking for people with disabilities where applicable. The layout and construction standards to be in accordance with Tweed Shire Council Development Control Plan, Part A2 - Site Access and Parking Code.
- Amend now Condition 86 (former Condition 84) to insert the words 'below a depth of 1.5m' in the second sentence after the word 'disturbed'
- Amend now Condition 88 (former Condition 86) to delete the words 'the General' and replace with 'Council's General' and delete the word 'their'
- Amend now Condition 89 (former Condition 87) to delete the word 'the' and replace with 'Council's' after the words 'satisfaction of' in the first sentence
- Amend now Condition 102 (former Condition 100) to read as follows:
 

102. Prior to the issue of an Occupation Certificate, a Suitably Qualified Acoustic Consultant is to provide a written Acoustic Verification Report to the satisfaction of the Principal Certifier/Principal certifying Authority that the development complies with the requirements set out in the DA Acoustic Report prepared by DA Acoustic Report prepared by Acoustic Report prepared by CRG Acoustics, dated 11 July 2024, reference 21045 report rev.2, titled Environmental Noise Impact Report. The applicant shall carry out any such recommendations as provided within the Post Construction Noise Impact Compliance Assessment report to the satisfaction of Council's General Manager or delegate within 30 days from the date of the acoustic assessment, provided that Council's General Manager or delegate may extend the time period for the carrying out of any recommended acoustic treatment to a date which may be determined by Council's General Manager or delegate.
- Amend now Condition 108 (former Condition 106), part b(v) to read as follows:
 

108b.(v) Keeping or permitting the entry of domestic animals or any other animals that are not indigenous to the Conservation Area with the exception of assistance animals and police dogs as defined by the Companion Animals Act 1998; and
- Correct the typographical errors in now Condition 110 (former Condition 108) of 'Covenant' in dot point 2 and 'regime' in dot point 4
- Insert new Condition 115 which reads as follows and renumber the remaining conditions accordingly:
 

115. Sign #1 as identified on Drawing DA300 Issue 2 - Signage 1 & 2, prepared by Aspect Architecture and dated 25.06.2024 is not approved. Prior to the issue of an occupation certificate, revised sign #1 details (including illumination details and reduced dimensions) are to be submitted to and approved by Council's General Manager or delegate prior to the issue of an occupation certificate. Thereafter the sign shall be maintained for the life of the development in accordance with any other applicable conditions of this consent, unless otherwise agreed in writing by Council's General Manager or delegate.
- Amend now Condition 117 (former Condition 114) to read as follows:



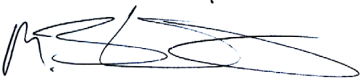


117. No part of the development shall be used for commercial or other purposes (including those of a function centre), other than those that are the primary approved use(s) of the development, or those that are ancillary to the approved primary use(s) of the development. Ancillary uses include those of the proposed café, playground and “kids spaces” associated with the use of the approved place of public worship.
- Insert new Condition 118, which reads as follows and renumber the remaining conditions accordingly:
  118. Hours of operation of the Church and all ancillary uses/facilities are restricted to the following hours:  
7.00am – 10.00pm seven days per week
- Amend now Condition 119 (former Condition 115) to replace the word ‘the’ with ‘Council’s’ in the second sentence after the words ‘satisfaction of’
- Insert new Condition 120, which reads as follows and renumber the remaining conditions accordingly:
  120. All external pedestrian-used spaces around the buildings, including car parking areas (especially that between the buildings and the eastern freeway edge fencing) are, at every stage, according to established Crime Prevention Through Environmental Design (CPTED) practices to enhance security and personal safety, to be managed, provided where possible with opportunities for passive surveillance and appropriately lighted to the satisfaction of Council’s General Manager or delegate.
- Amend now Condition 121 (former Condition 116) to read as follows:
  121. All externally mounted artificial lighting, including security lighting and any car park floodlighting, shall comply with Australian Standard AS4282:2019 *Control of the obtrusive effects of outdoor lighting* and be shielded to the satisfaction of Council’s General Manager or delegate where necessary or required to prevent the spill of light or glare creating a nuisance to neighbouring or adjacent premises or a hazard to the M1 Pacific Motorway. Externally mounted lighting shall not spill beyond the boundary of the site.
- Insert new Condition 125 which reads as follows and renumber the remaining conditions accordingly:
  125. There shall be no external amplified music or use of external amplification equipment, unless otherwise agreed in writing by Council’s General Manager or delegate.
- Amend now Condition 127 (former Condition 121) to read as follows:
  126. Waste collections shall be limited to hours between 6am and 6pm.
- Amend now Condition 132 (former Condition 126) to replace the word ‘the’ with ‘Council’s’

## **CONSIDERATION OF COMMUNITY VIEWS**

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the Panel. The Panel notes that issues of concern included:

- Flooding and stormwater
- Traffic and parking
- Pedestrian/cyclist connectivity
- Character and amenity
- Biodiversity and vegetation removal
- Water and wastewater
- Noise
- Acid Sulfate Soils, groundwater and dewatering
- Contamination
- Food premises

The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report and that no new issues requiring assessment were raised during the public meeting. The Panel notes that in addressing these issues, appropriate conditions have been imposed.

PANEL MEMBERS	
 Dianne Leeson (Chair)	 Stephen Gow
 Michael Wright	 John Byrne
 Pat Miller	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSNTH-250 – Tweed – DA23/0316
2	PROPOSED DEVELOPMENT	Place of public worship, signage and ancillary uses including restaurant or café in five (5) stages
3	STREET ADDRESS	90 Phillip Street, Chinderah
4	APPLICANT/OWNER	Zone Planning Group The Trustee for Gardn Church Property Trust
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>Biodiversity Conservation Act, 2016</li> <li>Rural Fires Act, 1997</li> <li>State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>State Environmental Planning Policy (Planning Systems) 2021</li> <li>State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>State Environmental Planning Policy Transport and Infrastructure) 2021</li> <li>Tweed Local Environmental Plan 2014</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Tweed Development Control Plan 2008</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i></li> <li>Coastal zone management plan: Nil</li> <li>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>The suitability of the site for the development</li> <li>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Council Assessment Report: 6 September 2024</li> <li>Written submissions during public exhibition: 69</li> <li>Total number of unique submissions received by way of objection: 4</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Briefing: 14 November 2023 <ul style="list-style-type: none"> <li><u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow, Michael Wright, Pat Miller and Ned Wales</li> <li><u>Council assessment staff</u>: Andrew Watkins and Colleen Forbes</li> <li><u>Department staff</u>: Carolyn Hunt, Louisa Agyare, and Lisa Ellis</li> </ul> </li> <li>Site inspection: 4 June 2024 <ul style="list-style-type: none"> <li><u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow, Ned Wales and Pat Miller</li> <li><u>Council assessment staff</u>: Colleen Forbes, Michael Banks and Andrew Watkins</li> <li><u>Applicant Representatives</u>: Matt Cooper, Scott Mason, Jonathon Kerridge, Amy Kerridge, Daniel Mulhern, Darren Gibson, Peter Thornton, Nayya Lees, Tom MacDougall and Josh Neale</li> </ul> </li> <li>Applicant Briefing: 17 September 2024</li> </ul>



		<ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow, Michael Wright, Pat Miller and John Byrne</li> <li>○ <u>Applicant representatives</u>: Daniel Mulherin, Darren Gibson, Scott Mason, Matt Cooper, Jono Kerridge, Josh Neale, Amy Kerridge</li> <li>○ <u>Council assessment staff</u>: Andrew Watkins, Angie Cousens, Ray Clark, William Lewis, Meredith Anderson, Oscar Sargeson, Colleen Forbes, David Bell, Scott Benitez Hetherington and Paul Weaver</li> <li>○ <u>Department staff</u>: Carolyn Hunt, and Lisa Ellis</li> </ul> <ul style="list-style-type: none"> <li>● Final briefing to discuss Council's recommendation: 17 September 2024 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow, Michael Wright, Pat Miller, John Byrne</li> <li>○ <u>Council assessment staff</u>: Andrew Watkins, Angie Cousens, Ray Clark, William Lewis, Meredith Anderson, Oscar Sargeson, Colleen Forbes, David Bell, Scott Benitez Hetherington and Paul Weaver</li> <li>○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report