

Attachment B: Tables of Compliance

Assessment against Clarence Valley Residential Zones Development Control Plan 2011

Clause	Comment	Compliance
Part C. General Development Controls for Residential Zones		
C3. Site Assessment Requirements The site assessment should consider the existing characteristics, opportunities and constraints of the site and the surrounding area, which should form the basis for site layout and building design.	The proposed development has been designed to respond to constraints that apply to the site including natural hazards and heritage. As contained in the detailed discussion below, the proposal is generally consistent with the controls and their respective objectives that apply to the site.	Yes
C4. Streetscape requirements	The proposed development is consistent with the streetscape and locale of the site, the building is well articulated and has setbacks proportionate to nearby development which respond to the bulk and scale of the additions, the first floor is setback from the front boundary which compliments the heritage conservation area and surrounding development. Suitable landscaping is provided to further soften the appearance of the building.	Yes
C5. Building Design Requirements	The siting of the development responds to the constraints of the site with respect to flooding and heritage. The first floor is adequately setback to reduce the bulk and scale of the building when viewed from the public domain. Negligible cut and fill are proposed as part of the development and materials and colours will compliment the surrounding development and heritage conservation area.	Yes
C6 - Consideration of the Resilience and Hazards SEPP and NSW Coastal Design Guidelines - Development in the coastal zone must comply with Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.	See full assessment under <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> above.	Yes
C13 Building Height - The height of a building is not to exceed the maximum height shown for the land on the Height of Buildings Map under the LEP. C13.2 Top Plate Height – based on maximum height of building – 6.5m	See full assessment under Clause 4.6 in the main report. The applicant has sought a variation to this control and set out suitable reasons for why Council should accept the variation on merit demonstrating it meets the objectives of the DCP and the clause. This control is primarily in place to restrict residential development in the zone to 2 storey development with pitched roofs, however the control applies to all development in the residential zones. Given the context of the site in a predominantly commercial area, the requirement to comply with the top plate height is unreasonable for development of this nature. The increased height and proposed roof design is necessary	No

Clause	Comment	Compliance
	to accommodate acoustic separation of uses and create functional practice and rehearsal spaces within the facility. The increased top plate does not detract from the streetscape and is generally consistent with adjacent and nearby commercial development. The design is also sympathetic to the heritage conservation area despite the non-compliance. It is therefore considered that compliance with the control is unreasonable in the circumstances for this type of use.	
C14 Shadow Diagrams - A shadow diagram showing the impact on adjoining properties must accompany a development application where the maximum building height exceeds 6.5 metres	The control primarily relates to solar access in private open space areas associated with residential development, taking into account the location of the site and surrounding land uses all being commercial, shadow diagrams have not been provided which is considered acceptable in the circumstances.	No
C15 Variation to the Maximum Building Height -	As above.	No
C16 Setbacks Front – 6m Rear – considered on merit where fronting a laneway Side – 1.5m required	The development proposes the following setbacks: Front – 2.95m (6m required however an existing non-compliant setback exists) Rear – 240mm (considered on merit where fronting a laneway) North (side) – 1.5m to new works (1.5m required) South (side) – 1.58m (1.5m required) The applicant has sought a variation to this control and set out suitable reasons for why Council should accept the variation on merit demonstrating it meets the objectives of the DCP and the clause. Similar to the above comments, the setbacks under the DCP are more conducive to residential developments, whereas commercial uses on business zoned land are typically permitted to have zero setbacks subject to meeting relevant fire safety provisions under the BCA/NCC. Front – the proposed front setback is a slight increase from the existing setback to the building to be removed from the site (approximately 2.4m), furthermore, the proposed setback is consistent with the existing pattern in the streetscape. The new works will not dominate the street and will maintain the low scale character of the locality as the first floor is setback approximately 12m, which reduces the apparent bulk and scale of the building as viewed from the street. The design compliments the existing streetscape which will be enhanced with additional landscaping. The reduced setback is supported as it will not dominate the streetscape and compliments the existing setback pattern. Side - The proposed side setbacks are consistent with the DCP controls based on the height of the building and provide for adequate separation of the building. Rear – on balance the proposed rear setback, including the first floor only being setback 240mm from the rear boundary, is generally consistent with other adjacent and nearby developments which are built to the boundary. The proposed setback does not result in impacts to sight lines or road safety issues in the laneway.	No

Clause	Comment	Compliance
C19 Landscaped Area Requirements in R1 R2 and R3 Zones All development on land in the R1 and R2 Low Density Residential zone must have a minimum of 45% of the site area as landscaped area, unless a landscaped area requirement is identified in another clause of this DCP.	The landscaped area provision applies to both residential and non-residential development and is Council's primary density control as Council has not adopted a floor space ratio. The existing site has only approximately 20% landscaped area which is an existing non-conforming situation on the site. Under the proposal development this is to be further reduced to 13%, being 198m². The subject land is located in a transitional area on the edge of the central business area of Grafton where there is mix of uses including residential, tourist accommodation and commercial which vary in site coverage from fully developed to a typical residential block with adequate landscaped area and private open space for that use. It is considered unreasonable to require less site coverage/increased landscaped area to offset the extension to the conservatorium as paved areas external to the building provide patrons access to the building and landscaping has been maximised as far as practical. The Applicant has provided a concept stormwater management plan which the Development Engineer has generally supported. The music academy has operated from the subject site since the 1930s. The building underwent later additions in the 1980s and has undergone further changes and modifications since that time. The proposed additions will intensify the approved use of the site from current operations and will allow the conservatorium to provide a better service and improved facilities for both staff and students to learn in. Bearing in mind the current commercial use of the site as a music academy, the location of the property adjacent to the B3 Commercial Core Zone and the justification put forward by the applicant the proposed variation is considered suitable in the circumstances.	No
C22 Landscaping	A concept landscaping plan has been submitted which is considered generally acceptable, will contribute to the streetscape and enhance the appearance of the building.	Yes
C24 The controls in this part of the DCP provide further guidance in relation to clause 7.8 Essential Services of the Clarence Valley LEP 2011. Refer also to Part J of this DCP. Clause 7.8 requires Council to be satisfied that any utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available.	The subject site has access to reticulated electricity, sewer, water and stormwater which will be utilised as part of the additions. The subject lot has frontage to a Council maintained road. Therefore, Council is satisfied services are available for the proposed development. No extension of services or upgrades to the surrounding network is required as part of the development.	Yes
C25 Development of flood prone land must comply with the requirements of PART D of this DCP.	Refer to comments below, compliance with part D has been demonstrated	Yes
C26 Controls for Bush Fire Prone Land On bush fire prone land, a DA must comply with the NSW RFS	Land is not bushfire prone.	N/A

Clause	Comment	Compliance
<i>Planning for Bushfire Protection 2019.</i>		
C27 Development of land with Acid Sulfate Soils Specific controls apply to disturbance of land classified and identified as Acid Sulfate Soils on the Clarence Valley LEP 2011 Acid Sulfate Soils Map.	The applicant has indicated that there will be works below 2m of the natural ground surface however the initial structural design of the building and associated footing design is to use screw piers, therefore there will be no exposure of potential acid sulfate soils for this development. Further investigations are not required.	Yes
C29 Waste Management	A suitable waste plan has been submitted with the application and will be conditioned to comply with the requirements.	Yes

Part D. Floodplain Management Controls

D3.1 Performance Criteria All development requiring Council consent must comply with the following performance criteria: (a) The proposed development should not result in any increased risk to human life. (c) The proposal should only be permitted where effective warning time and reliable access is available for evacuation from an area potentially affected by floods to an area free of risk from flooding. Evacuation should be consistent with any relevant flood evacuation strategy. (d) Development should not detrimentally increase the potential flood effects on other development or properties either individually or in combination with the cumulative impact of development that is likely to occur in the same floodplain.	The subject site is within the flood planning area. The defined flood event is <i>the Lower Clarence River floodplain area (including Grafton to Yamba / Iluka), Council has adopted the 1% AEP 2090 Climate Change (RCP 4.5) scenario (derived from the Lower Clarence Flood Model Update 2022) as the Defined Flood Event, plus 500mm Freeboard.</i> The proposed development will be classified as infill development in accordance with Clarence Valley Councils policy. The 1% AEP 2090 Climate Change (CC) level for the site is shown as 7.6 to 7.7 metres AHD with a corresponding flood planning level of 8.2m AHD.
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Under the DCP controls only, commercial development must have floor levels above the 20% flood level and be constructed of flood compatible materials below the flood planning level. The 20% AEP flood event does not impact on the site, meaning that the flood levels of the existing building, being approximately 6.7m AHD can be matched for the proposed extension to the facility. It is proposed to construct the building with flood compatible materials for the first floor	Yes
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area, noting the second floor has a proposed finish floor level of 10.7m AHD. The building will also be designed to resist any loads and effects from the 1% AEP (1:100 year) 2090 CC flood. Taking into account the above and given the existing use of the site as a community facility and no significant intensification of use on the site, the proposal is considered to remain compatible with the flood function of the site and is not considered to adversely impact evacuation of the site or capacity of evacuation routes. The proposed development will increase flood resilience of the site through construction of flood compatible materials as outlined above and the addition of the first floor will provide an area for storage purposes in the event of a flood. <u>Outcome:</u> Satisfactory subject to conditions being imposed on any consent granted.		
D3.2 Schedules D3 and D4 outline the controls relevant to each of the floodplains to which this Plan applies. Compliance with the prescriptive controls as defined in Schedules D3 and D4 is deemed to comply with the performance criteria specified in Clause D3.1 unless, in Council's opinion, particular circumstances apply that require a variation in light of D3.1.	The assessment provided against D3.1 above shows that the development can meet the prescriptive controls in Schedule D3 and D4 of the DCP.	Yes.
Part F Heritage Conservation		
F5. Statements of Heritage Impact and Conservation Management Plans Applicants may be required to submit a Statement of Heritage Impact (SOHI)	A Statement of heritage impact has been submitted with the application.	Yes
F6. Demolition Controls	A Statement of Heritage Impact (SOHI) has been submitted with the application. The assessment has determined that the structure can be removed from the site or demolished. It is considered that while the existing building does have heritage significance in the context of the heritage conservation area and its association with the Sisters of Mercy, due to later developments of the surrounding land and the site itself, the building has lost its residential context and setting and subsequent significance. In consideration of this, removal or demolition is considered appropriate and will support the ongoing use of the site for positive social impacts and contribution to the community. The external façades are designed to be sympathetic to the Heritage Conservation Area and are considered acceptable in this location.	Yes
F8. Development in the vicinity of a Heritage Item or within a Heritage Conservation Area F8.1 Objectives – manage and minimise impacts	The subject site is located within the North Grafton Heritage Conservation Area and is in proximity to, but does not directly adjoin, a number of local heritage items including the Convent, St Mary's Catholic Church and a number of individual residences. The nearby Christ Church Cathedral (71 Fitzroy Street) is a state listed item. The site however is	

E8.2 Controls – development should not detract from the identified setting of heritage buildings or the HCA	surrounded by 1980's-2000s modern brick buildings, two storey commercial buildings with a mix of skillion and gabled roof structures. The SOHI considers the site and the development in local context, the significant of the existing built form of the site and impacts of the development. The proposed development has been designed having regard to the Residential Zones DCP and is generally consistent with the built form controls as applicable to a non-residential development. The proposed development is consistent with the scale and form of other buildings in the locale. Articulation of the façade, use of multiple building materials and having the two storey component setback from the front boundary ensure the proposal does not dominate the streetscape. The external façades are designed to be sympathetic to the Heritage Conservation Area and are considered acceptable in this location.	
E9. General Principles for Heritage Conservation	On balance, the findings of the SOHI are concurred with being that removal or demolition will not have a significant impact. The site will retain its use and social context in the broader community of providing musical tuition. Conditions are to be imposed on any consent issued regarding the salvage of materials and building elements if off-site relocation is not practical or realised, provision of a photographic archival recording and a Heritage Interpretation Strategy is to be prepared. Standard heritage discovery conditions were also recommended. Refer to additional comments under the Key Issues Section for further heritage considerations. An AHIMS Search has been undertaken and submitted with the application which does not identify any places or objects of Aboriginal significance. The applicant states <i>'Given the urbanised context of the site and extent of existing disturbance, as well as the nature and footprint of the Proposal, the development is unlikely to result in the disturbance or harm to Aboriginal Heritage.'</i> Appropriate conditions will be imposed regarding any unexpected finds including relics.	N/A.
E10. Policies for New Development, Alterations and Additions	The proposed development is consistent with the scale and form of other buildings in the locale. Articulation of the façade, use of multiple building materials and having the two storey component setback from the front boundary ensure the proposal does not dominate the streetscape. The external façades are designed to be sympathetic to the Heritage Conservation Area and are considered acceptable in this location. Conditions are to be imposed on any consent issued regarding the salvage of materials and	

	building elements if off-site relocation is not practical or realised, provision of a photographic archival recording and a Heritage Interpretation Strategy is to be prepared. Standard heritage discovery conditions were also recommended.	
Part G Parking And Vehicular Access Controls		
G2 Number of Car Parking Spaces The number of car parking spaces required for different land uses should be provided in accordance with TABLE G1	The development provides for 3 onsite carparking spaces which is a reduction to the 5 current car spaces on-site. <u>Community Facilities</u> Commercial facilities are required to provide the following number of spaces: • <i>1 space per 10 seats or 1 space per 15m² of main assembly area, whichever is the greater</i> The applicant states the existing auditorium used for performances constitutes the main assembly area, with a floor area of approximately 110 m², no changes are proposed to the auditorium area. There is an increase in the number of practice/teaching spaces within the facility. The existing development and facility rely on existing on-street parking in the surrounding street network, with this arrangement proposed to continue. On balance the assessment from the applicant is supported and no additional parking is to be provided on-site given the use of practice spaces is unlikely to coincide with performances in the main auditorium. Taking into account the location of the site on the edge of the Grafton central business area and the surrounding land uses, there is sufficient capacity in the surrounding street network to account for the additions to the conservatorium. A condition has been included to provide bicycle parking on the site. It is observed that car parking demand and operational hours for the facility are at peak after school hours and on weekends which will not adversely impact on the nature and volume of traffic in the surrounding street network and does not conflict with other nearby commercial land uses, and is therefore considered acceptable.	
G4. Car Parking Space Dimensions	Swept vehicle paths provided with the application demonstrate that the proposed parking arrangement can function which is supported by the assessing development engineer.	Yes
G5 Manoeuvring, loading and unloading All business development must provide on-site loading and unloading facilities in designated loading bays.	The existing operation of the site utilises the surrounding street network for delivery and service vehicles accessing the site, nil change to this arrangement is proposed and is supported by the assessing Development Engineer.	Yes
G6 Access to the Site	While reversing from the car parking spaces directly onto the road is inconsistent with the controls, this is an existing non-conforming	Yes

All vehicles must enter and leave the site in a forward direction.	situation on the site. Reversing movements from the 3 car parking spaces back onto Hickory Lane is considered satisfactory as Hickory Lane is a low-speed low volume roadway, and the number of these movements is being reduced due to the reduction of car parks from approximately 5 to 6 informal spaces to 3 formal spaces.	
Part H Sustainable Water Controls		
To maintain water quality and hydrology to predevelopment flows. Prevent or minimise pollutants entering stormwater and treat stormwater on the site of the development. To enable a more efficient use of potable water. To reduce stormwater runoff volumes and peaks and to mimic natural tail water flows.	Council's assessing Development Engineer has reviewed the submitted stormwater management plan and supports the proposed concept arrangement. The proposed renovation to the conservatorium will result in an increase in impervious area from increased roof, driveway and pathway areas. The Applicant's consultant proposes to use Water Sensitive Urban Design (WSUD) measures to control and treat stormwater as per the Council's planning guidelines. Stormwater from the rooved areas will be directed to two rain water tanks that also have additional volume to cater for on-site stormwater detention. Stormwater that is retained will be reused on site while stormwater that is detained will be discharged through an outlet to control the discharge rate. Stormwater from the pathway and driveway will be directed to a bioretention basin with a surface area of about 31m². MUSIC modelling demonstrates that the stormwater quality target set out in the DCP will be met.	Yes
Part I Erosion and Sediment Control		
Prevent land from being degraded by soil erosion or unsatisfactory land and water management practices. Protect the Clarence River and other streams and waterways from being degraded by erosion and sedimentation caused by unsatisfactory land and stormwater management practices.	A Concept sediment and erosion control plan has not been submitted. Proposed conditions will require detailed plans to be prepared and approved prior to issue of any future Construction Certificate.	Yes.
Part J. Subdivision and Engineering Controls		
J9 Site Access - Vehicular access driveways from a public road must comply with Australian Standard 2890	Council's assessing Development Engineer has reviewed the submitted plans and supports the proposed parking arrangement. Access to the car parking spaces will be via a new wide vehicle crossing, to be constructed from the Hickory Lane sealed carriageway to the property boundary. Existing driveways/parking spaces (two) accessing off Villiers Street are proposed to be removed under this proposal. A sewer manhole is situated within the Hickory Lane road reserve and flush with the existing levels. Some minor new pavement widening is required around it as part of the construction of the vehicle crossing into the site.	Yes

	While reversing from these car spaces directly onto the road is inconsistent with the controls, this is an existing non-conforming situation on the site. Reversing movements from the 3 car parking spaces back onto Hickory Lane is considered satisfactory as Hickory Lane is a low-speed low volume roadway, and the number of these movements is being reduced due to the reduction of car parks from approximately 5 to 6 informal spaces to 3 formal spaces.	
J10 Provision of Services	See assessment under Clause 7.8	Yes
Part K Advertisements and Advertising Structures		
Relates to advertising signage – business identification signs in the residential zone are permitted without consent.	The signage proposed is not considered advertising as it is a building identification sign. The signage concepts submitted are considered appropriate within the Heritage Conservation Area and relate to the form and materials of the proposed development. Conditions will be included in the consent to ensure no up-lighting or flashing lights will be installed.	