

COUNCIL ASSESSMENT REPORT

NORTHERN REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	Panel Ref Number – PPSNTH-480 Development Application No. DA2025/0523
PROPOSAL	Alterations and Additions to the Clarence Valley Conservatorium including removal of an existing structure, demolition of ancillary outbuildings and signage
ADDRESS	Lot 10 DP 1047477 8 Villiers Street Grafton NSW 2460
APPLICANT	GeoLINK
OWNER	Clarence Valley Conservatorium Incorporated
DA LODGEMENT DATE	22 December 2025
APPLICATION TYPE	Development Application
REGIONALLY SIGNIFICANT CRITERIA	Clause 5, Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> : Private infrastructure and community facilities over \$5 million
CIV	\$6,325,294.00 (excluding GST)
CLAUSE 4.6 REQUESTS	Clarence Valley Local Environmental Plan 2011 – Clause 4.3 Height of Buildings
KEY SEPP/LEP	<i>Environmental Planning and Assessment Act 1979</i> <i>Environmental Planning and Assessment Regulation 2021</i> <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 (Resilience and Hazards) 2021</i> <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> ; <i>State Environmental Planning Policy (Sustainable Buildings) 2022</i> <i>Clarence Valley Local Environmental Plan 2011</i> Clarence Valley Residential Zones Development Control Plan 2011
TOTAL & UNIQUE SUBMISSIONS KEY	Nil

ISSUES SUBMISSIONS	IN	
DOCUMENTS SUBMITTED FOR CONSIDERATION	FOR	Statement of Environmental Effects – GeoLINK – 1 December 2025 Response to Request for Information – GeoLINK – 22 April 2026 Architectural Drawings – DRA Architects Pty Ltd – 13 April 2026 Landscape Plan - GeoLINK – 21 November 2024 Architectural Design Statement - DRA Architects Pty Ltd – 2 September 2025 Section 4.6 Building Height Variation – GeoLINK – 21 November 2025 AHIMIS Search – 20 February 2025 Statement of Heritage Impact – Permual Murphy Alessi Heritage Consultants – January 2025 Stormwater Management Report – Bridge Knowledge – 9 September 2025 Site Waste Minimisation Plan – GeoLINK - undated BCA Compliance Report – McCarthy Consulting Group NSW Pty Ltd – 10 April 2025 Access Report – iAccess Consultants – 13 February 2025 Flood and Acid Sulphate Report – Bridge Knowledge – 16 September 2025 EPBC Act Protected Matters Report – 14 November 2025 Acoustic Report – ADP – 28 November 2024 Mechanical Services Report – Clarence Consultants Pty Ltd – 28 November 2024 Hydraulic Services Report – Glen Haig & Partners – 14 February 2025 Electrical Services Report - Clarence Consultants Pty Ltd 23 December 2023
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)		Nil
RECOMMENDATION		Approval
DRAFT CONDITIONS TO APPLICANT		Yes
SCHEDULED MEETING DATE		17 August 2026
PLAN VERSION		13 April 2026 Version No DA-2
PREPARED BY		James Hamilton, Coordinator Development Services
DATE OF REPORT		6 August 2026

EXECUTIVE SUMMARY

The development application (DA2025/0523) seeks consent for Alterations and Additions to the Clarence Valley Conservatorium including removal of an existing structure, demolition of ancillary outbuildings and signage. The land use is defined as a 'Community Facility'.

The subject land is known as Lot 10 DP 1047477, No. 8 Villiers Street, Grafton. The site has an area of 1,502m² (39m x 40m) and is located on the eastern side of the Grafton central business district. The site is approximately 450m east of Prince Street, being Grafton's main street. The subject site is relatively flat with frontage to Villiers Street to the west and Hickory Lane to the east (rear). Constraints that exist for the site include flooding, acid sulfate soils and heritage.

The existing cottage on the site has been used for music tuition since the 1930s and subsequent addition of the music academy to the rear in 1985. The site is bound by commercial developments to the north and south of the site, with motels located to the east and west of the development.

The site is located in the R1 General Residential Zones pursuant to Clause 2.2 of the Clarence Valley *Local Environmental Plan 2011*. Demolition and alterations and additions to the existing community facility on-site is permissible with consent in the R1 zone.

The principal planning controls relevant to the proposal include *State Environmental Planning Policy (Resilience and Hazards) 2021*, *State Environmental Planning Policy (Industry and Employment) 2021*, *State Environmental Planning Policy (Transport and Infrastructure) 2021*, *Clarence Valley Local Environmental Plan 2011* ('the LEP') and *Clarence Valley Residential Zones Development Control Plan 2011* ('the DCP'). The proposal is inconsistent with various provisions of the planning controls including:

- An exceedance of 0.7 metres in building height above the 9m control under Clause 4.3 of the LEP; and
- Inconsistencies with Parts C general development controls (setbacks) and Part G car parking under the DCP.

There were no concurrence or referral requirements to agencies for the proposal and the application is not integrated development pursuant to Section 4.46 of the *Environmental Planning and Assessment Act 1979* ('EP&A Act').

The proposal was advertised and notified in accordance with Council's Community Participation Plan (CPP) from 23 December 2025 to 9 February 2026. Council did not receive any submissions to the proposal during the exhibition period.

The application is referred to the Northern Regional Planning Panel ('the Panel') as the development is 'regionally significant development', pursuant to Clause 5 (b) of Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021* as the proposal is private infrastructure and community facilities over \$5 million.

A briefing has not been held with the Panel, however the key issues associated with the current proposal identified during assessment of the application include heritage impacts, parking and non-compliances with Council's adopted planning controls including building height and setbacks.

Following consideration of the matters under Section 4.15(1) of the EP&A Act, the provisions of the relevant State environmental planning policies, the *Clarence Valley Local Environmental*

Plan 2011 and the Clarence Valley Residential Zones Development Control Plan 2011, it is recommended that the proposed development be supported.

The issues of urban, heritage, amenity and parking impacts are all considered significant issues in the context of the application which have been addressed by the applicant. Additional supporting information has further resolved these issues which have been reinforced through draft recommended conditions of consent.

Following a detailed assessment of the proposal, pursuant to Section 4.16(1)(a) of the *EP&A Act*, DA2025/0523 is recommended for approval subject to the conditions contained at **Attachment A** of this report.

1. THE SITE AND LOCALITY

1.1 The Site

The subject land is known as Lot 10 DP 1047477, No. 8 Villiers Street, Grafton.

The site has an area of 1,502m² (39m x 40m) and is located on the eastern side of the Grafton central business district. The site is approximately 450m east of Prince Street, being Grafton's main street.

The subject site is relatively flat with frontage to Villiers Street to the west and Hickory Lane to the east (rear). The existing cottage on the site has been used for music tuition since the 1930s and subsequent addition of the music academy to the rear in 1985. The site is bound by commercial developments to the north and south of the site, with motels located to the east and west of the development.

Constraints that exist for the site include flooding, acid sulfate soils and heritage.

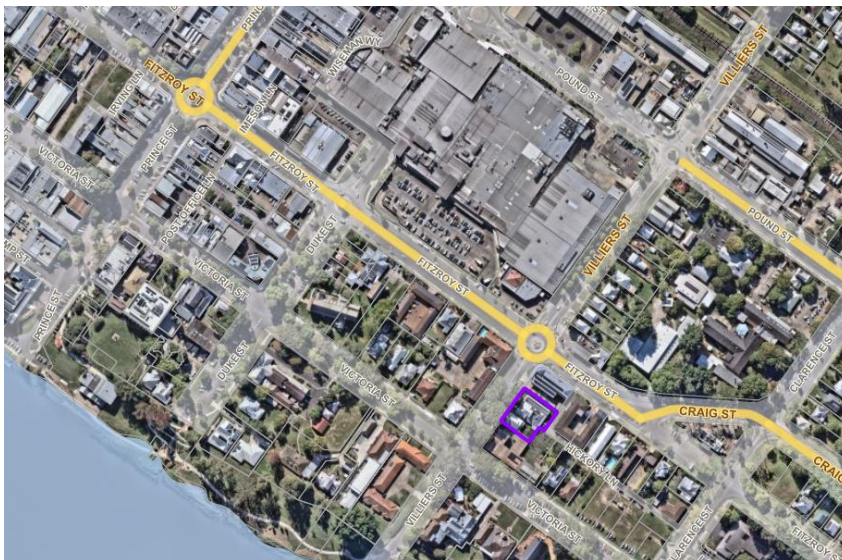


Figure 1 Aerial Photos of the site (source: Council's Intramaps)



Figure 2 Photograph of site frontage



Figure 3 Photograph of rear of site

1.2 The Locality

The site is located on the edge of the Grafton central business area in a transitional zone between commercial and residential development. Surrounding land uses include a mix of commercial developments including retail, offices and motels. The site sits within Grafton's parish precinct made up by two cathedrals, convent buildings and various former school buildings which have been repurposed for offices or demolished and replaced with multi-unit residential developments.

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The proposal seeks consent for removal of the existing structure, which will be replaced by alterations and additions to the existing Clarence Valley Conservatorium building at the rear.

As outlined in the Statement of Environmental Effects, the proposal involves:

Contemporary Addition/ New Building - The proposal replaces the existing 1930s cottage with a modern, functional, and fully accessible space that connects seamlessly with the existing 1980s building, creating a single, cohesive facility.

New Entry/ Foyer - The proposal includes a clearly articulated main entry, featuring a cantilevered canopy and signage pylon, which serves as the orientation and reception area for students, visitors, and patrons.

Practice Rooms and Classrooms - The new practice and classroom spaces are located on the upper floor of the addition and are accessed via stairs or a lift, ensuring full accessibility, and are designed to accommodate music lessons, individual or group practice, and educational programs.

Improved Auditorium Access - The existing intimate auditorium is retained, with improved access and direct connection to the new addition.

Accessibility and Circulation Upgrades - The ground floor is fully connected with no level changes, ensuring all areas are accessible, while lift access, ramps, and improved internal circulation provide convenient and equitable movement throughout the building.

Support Spaces - The reception and administration areas have been upgraded to improve operational efficiency, and enhanced storage and functional spaces replace the fragmented layout of the former cottage.

Exterior/ Service Areas - The proposal includes a wheelchair-accessible car parking space at the rear, directly connected to the building, while landscaped areas are designed to maintain visibility, safety, and the character of the streetscape.

The key development data is provided in **Table 1**.

Table 1: Development Data

Control		Proposal
Site area		1,502m ²
GFA		Increase from 307m ² to 778m ² (394m ² located on the ground floor and 384m ² on first floor)
FSR (retail/residential)		N/A
Clause Requests	4.6	Yes – a variation is sought to the maximum building height of 9m to permit roof top plant and equipment

Max Height	Building Height is 8.5m however is 9.7m to the top of screening for mechanical plant/equipment located on the roof
Landscaped area	198m ² (13.1%) – 676m ² /45% required under the DCP however the site is already non-compliant.
Car Parking spaces	Three inclusive of an accessible space proposed off the laneway.
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)

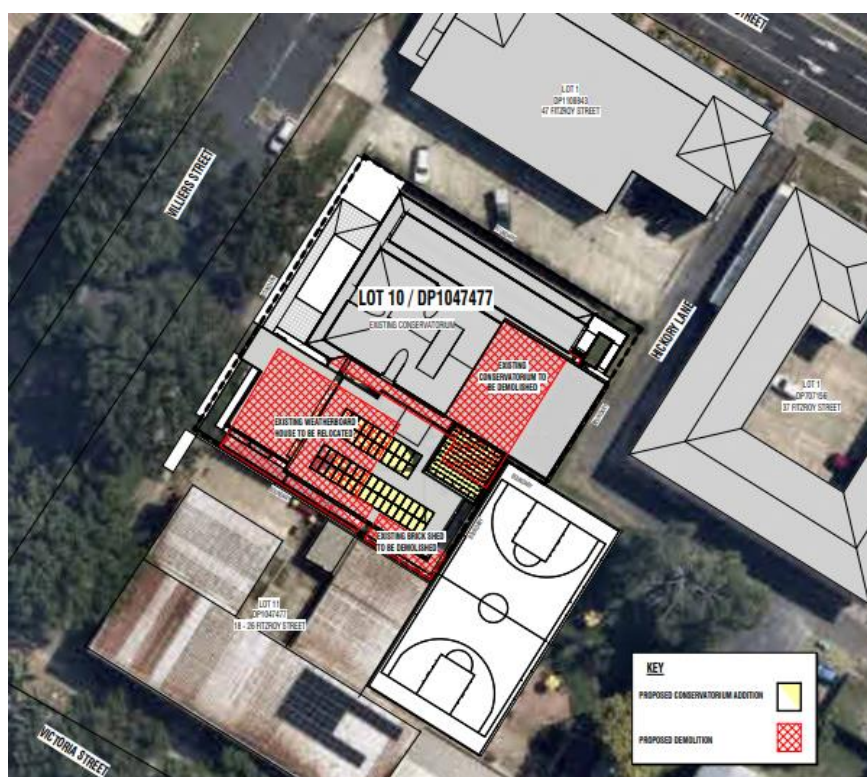


Figure 4 Existing Site Plan including demolition (Source: DRA Architects)

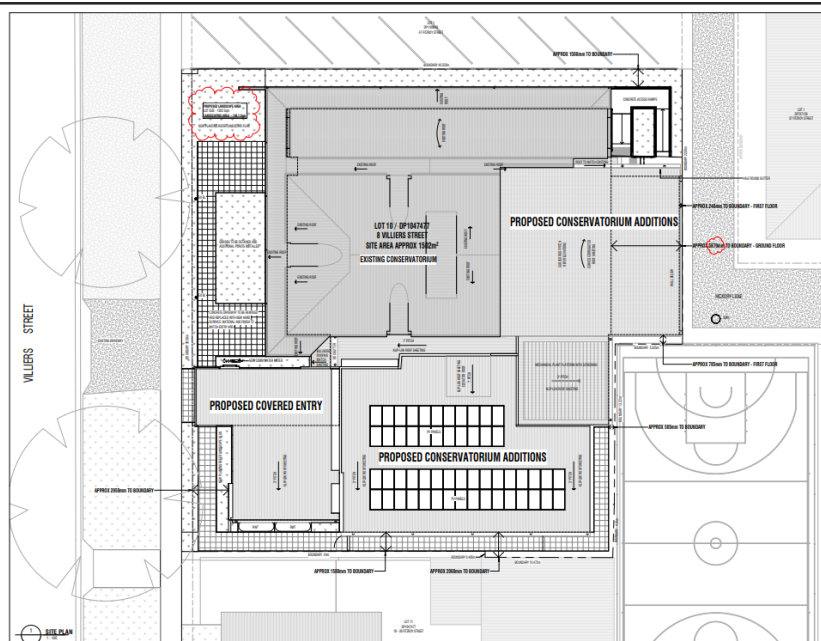


Figure 5 Proposed Site Plan (Source: DRA Architects)



Figure 6 Photomontage of frontage (Source: DRA Architects)



Figure 7 Photomontage of rear (Source: DRA Architects)



Figure 8 Photomontage of site (Source: DRA Architects)

2.2 Background

A pre-lodgement meeting was held prior to the lodgement of the applicant on 23 June 2022 where various issues were discussed. A summary of the key issues and how they have been addressed by the proposal is outlined below:

- Heritage impacts – positive design changes have been made to address Council's initial concerns in relation to articulation of the façade to reduce impacts.
- Compliance with the Residential Zones Development Control Plan, particularly landscaped area – Council acknowledged that the control is our primary density control and presents issues for redevelopment of sites for non-residential land uses. Appropriate justification and supporting information has been lodged for Council to consider these departures from the planning controls.

The development application was lodged on **22 December 2025**. A chronology of the development application since lodgement is outlined below including the Panel's involvement (briefings, deferrals etc) with the application:

Table 2: Chronology of the DA

Date	Event
22 December 2025	DA lodged
23 December 2025	Exhibition of the application until 9 February 2026
23 December 2025	DA referred to internal referral officers
6 February 2026	Request for Information from Council to applicant including additional justification for variations to planning controls and car parking
22 April 2026	Response to Request for Additional Information Received including amended plans (additional details shown on plans and changes to car parking layout shown at rear of property.
17 August 2026	Application scheduled for determination at August NRPP meeting

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),*
- (b) *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.

It is noted that the proposal is not considered to be:

- Integrated Development (s4.46)
- Designated Development (s4.10)
- Requiring concurrence/referral (s4.13)
- Crown DA (s4.33) - written agreement from the Crown to the proposed conditions of consent must be provided

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 are relevant to this application:

- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Industry and Employment) 2021*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *State Environmental Planning Policy (Sustainable Buildings) 2022*
- *Clarence Valley Local Environmental Plan 2011*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 3** and considered in more detail below.

Table 3: Summary of Applicable Environmental Planning Instruments

EPI	Matters for Consideration (Brief summary)	Comply (Y/N)
State Environmental Planning Policy (Biodiversity & Conservation) 2021	Chapter 4: Koala Habitat Protection 2021	Yes
State Environmental Planning Policy (Industry and Employment) 2021	Chapter 3: Advertising and Signage • Section 3.6 – granting consent to signage	Yes
State Environmental Planning Policy	Chapter 2: State and Regional Development • Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 5 (b) of	Yes

(Planning Systems) 2021	Schedule 6 as it comprises Private infrastructure and community facilities over \$5 million Chapter 4: Concurrence and Referrals • Section 4.30 – Traffic-generating development • Section 4.31 – Electrical Infrastructure	
SEPP (Resilience & Hazards) 2021	Chapter 2: Coastal Management • Section 2.10(1) & (2) - Development on land within the coastal environment area • Section 2.11(1) - Development on land within the coastal use area • Section 2.12 - Development in coastal zone generally - development not to increase risk of coastal hazards • Section 2.13 - Development in coastal zone generally - coastal management programs to be considered Chapter 4: Remediation of Land • Section 4.6 - Contamination and remediation has been considered in the Contamination Report and the proposal is satisfactory subject to conditions.	Yes
State Environmental Planning Policy (Transport and Infrastructure) 2021	Section 97 – 100 - Development in or adjacent to rail corridors - notification and other requirements	Yes
State Environmental Planning Policy (Sustainable Buildings) 2022	Chapter 3: Standards for non-residential development • Section 3.1 - alterations, enlargement or extension of an existing building, if the development has an estimated development cost of \$10 million or more	Yes
Proposed Instruments	No compliance issues identified.	Yes
LEP	• Clause 2.3 - Permissibility and zone objectives • Clause 4.3 - Height of Buildings • Clause 4.6 - Exception to Development Standards • Clause 5.10 - Heritage Conservation • Clause 5.21 - Flood Planning • Clause 7.1 - Acid Sulfate Soils • Clause 7.2 - Earthworks • Clause 7.8 - Essential Services	No

DCP	• Part C General Development Controls ○ Clause C4 Streetscape requirements ○ Clause C5 Building Design requirements ○ Clause C6 Consideration of the Resilience and Hazards SEPP and NSW Coastal Design Guidelines ○ Clause C13 Building Height ○ Clause C14 Shadow Diagrams ○ Clause C16 Setbacks ○ Clause C19 Landscaped Area Requirements ○ Clause C24 Provision of Essential Services ○ Clause C25 Development on Flood Liable Land ○ Clause C27 Development of Land with Acid Sulfate Soils ○ Clause C29 Waste Management • Part D Floodplain Management Controls • Part F Heritage Conservation • Part G Parking and Vehicular Access • Part H Sustainable Water Controls • Part I Erosion and Sediment Control • Part J Subdivision and Engineering Controls • Part K Advertisements and Advertising Structures	No
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Consideration of the relevant SEPPs is outlined below:

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 4: Koala Habitat Protection 2021

The land is not core koala habitat due to the lack of Koala feed trees on the site and the land does not have an approved koala plan of management applying to the land. As such, no further assessment is required under this chapter.

State Environmental Planning Policy (Industry and Employment) 2021

Chapter 3: Advertising and Signage

New building identification is included in the proposal. The sign is proposed to be located adjacent to the front entry and is approximately 6.4m tall and 1.6m wide.



Figure 9 Photomontage of sign (Source: DRA Architects)

Part 3.2 Signage generally

3.6 (b) – that the signage the subject of this application satisfies the assessment criteria specified in Schedule 5.

The proposed signage is consistent with the 8 design criteria:

1. Character of the area

The proposed is considered compatible with the existing and future character of the streetscape given the location of the site on the edge of the main commercial area of Grafton and limited nearby residential land uses. Conditions will be applied to limit any lighting of the signs to an appropriate level for a Heritage Conservation Area. There is no particular theme for advertising in the area.

2. Special areas

The proposed signage does not detract from the amenity or visual quality of the Heritage Conservation Area and is consistent with the proposed built form and materials of the development.

3. Views and vistas

The proposed signage will not impact views down Villiers Street towards the Clarence River.

4. Streetscape, setting or landscape

The scale, proportion and form of the proposed signage is considered appropriate within the street. The location of the building identification sign adjacent to the main entry, integration with the built form, set backs from the street and materials result in the signage complimenting the streetscape and not result in visual clutter. The proposed landscaping on-site, in addition to existing mature street trees will ensure that the sign blends seamlessly with the Heritage Conservation Area.

5. Site and building

The proposal is considered compatible with the scale, proportion and characteristics of the building. The sign is incorporated into the design of the building and will not detract from the proposed Community Centre and streetscape which compliments the Heritage Conservation Area. The proposed signage will not include ongoing vegetation management.

6. Associated devices and logos with advertisements and advertising structures,
There are no associated devices shown on the concept plans.

7. Illumination

The applicant has confirmed that illumination of sign is proposed however the details of type and nature of lighting is not known and could be externally or internally lit. It is considered more appropriate to down-light the sign and appropriate conditions will be included in the recommended conditions of consent to require this along with limiting the brightness of any back-lit signage.

8. Safety

Given the location and concept design of the sign, it is not expected to impact the safety for road users, pedestrians, bicyclists and will not obscure sightlines. Further to the conditions mentioned above, a recommended condition is to prohibit any flashing lights to ensure road users are not distracted.

The proposed identification signage visible from Villiers Street includes a large identification sign. Taking into account the height, the scale, proportion and form of the signage with regard to the proposed additions to the site, proposed materials and sympathetic external lighting, the sign is appropriate for the setting within the Heritage Conservation Area, with appropriate conditions.

State Environmental Planning Policy (Planning Systems) 2021 ('Planning Systems SEPP')

Chapter 2: State and Regional Development

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 Private infrastructure and community facilities over \$5 million. Accordingly, the Northern Regional Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

Chapter 4: Concurrence and Consultations

The subject site is not in close proximity to overhead power or proposing works in close proximity to electrical infrastructure.

The proposed development does not front a classified road and is not considered to be traffic generating development.

- *State Environmental Planning Policy (Resilience and Hazards) 2021*

Chapter 2: Coastal Management:

The subject site is located within the coastal use area and coastal environment area. There site is not within or in proximity to coastal wetlands or littoral rainforests. Furthermore, the site in its current form is not subject to coastal hazards. Council has a certified Open Coast Coastal Management plan however the site is outside of the area covered by the plan.

Coastal Use Area

The site is within an urbanised environment and due to the existing development on-site has little ecological value. Provided adequate controls and conditions are in place to manage stormwater, sediment and likelihood of erosion the development is not likely to impact coastal processes, water quality or the hydrological environment. The site is not near coastal lakes and will not impact on any public foreshore access. A search of the Aboriginal Heritage Information Management Service (AHIMS) data base did not reveal any items of Aboriginal significance within 200m of the site. Given the location of the site in a highly urbanised

environment, the proposal is generally consistent with relevant planning controls and through proper management during construction, the proposed development is generally not inconsistent with the provisions of the coastal use area.

Coastal Environment Area

The proposed development will not impact on any public foreshore due to its location. Taking into account the nature of the site and surrounding development there is unlikely to be any unreasonable overshadowing or loss of views. A search of the AHIMS data base did not reveal any items of Aboriginal significance within 200m of the site, given the urbanised and developed nature of the site it is unlikely that relics would exist however appropriate conditions will be included for unexpected find. As discussed in further detail below, the proposed development is sympathetic to the heritage conservation area in scale and built form and is not considered to result in a detrimental impact to the streetscape. As such Council is satisfied the development is suitable for the coastal environment area.

Chapter 4: Remediation of Land

The provisions of Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021* (*'the Resilience and Hazards SEPP'*) have been considered in the assessment of the development application. Section 4.6 of Resilience and Hazards SEPP requires consent authorities to consider whether the land is contaminated, and 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.

A search of publicly available records does not indicate any significantly contaminated sites are located in close proximity to the subject site. The site is within an established residential area and historically formed part of the catholic school site which occupied various lots in proximity to the church. Based on Council records, the site has been used for residential purposes at 6 Villiers Street until the cottage was converted in the 1930s for the purpose of music tuition. The dwelling at 8 Villiers Street remained until it was demolished in the early 1980s to make way for a music academy, which is to be retained as part of this development. Based on the site history available and no contaminating land uses as identified in Council's Contaminated Lands Policy, it is considered that the subject site is suitable for the proposed development and continued use as a community facility.

- *State Environmental Planning Policy (Transport and Infrastructure) 2021*

The subject site is not in close proximity to railway infrastructure.

- *State Environmental Planning Policy (Sustainable Buildings) 2022*

Chapter 3: Standards for non-residential development

The provisions of Chapter 3 apply to new buildings with an estimated cost over \$5 million and alterations, enlargement or extension of an existing building, if the development has an estimated development cost of \$10 million or more. The proposed development has an estimated value of \$6,325,294.00, therefore this policy does not apply to the development. However, the applicant states that while the provisions do not apply to this development, the objectives of the policy are met as *'the design continues to incorporate environmentally sensitive measures, including energy-efficient lighting, acoustic glazing, durable and low-maintenance materials, and improved accessibility.'*

Clarence Valley Local Environmental Plan 2011

The relevant local environmental plan applying to the site is the *Clarence Valley Local Environmental Plan 2011* (*'the LEP'*). The aims of the LEP include:

- (aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- (a) to encourage and enable the sustainable use, development and management of natural and man-made resources, including agricultural land resources and productive rural lands,*
- (b) to limit dispersed rural settlement,*
- (c) to provide a mix of housing, including affordable housing, to meet the needs of the community,*
- (d) to protect areas of high ecological, scientific, cultural or aesthetic value,*
- (e) to provide adequate access and services to development carried out in accordance with this Plan,*
- (f) to maintain the character of villages and towns,*
- (g) to conserve items and areas of environmental and cultural heritage,*
- (h) to provide a hierarchy of business/retail centres,*
- (i) to identify land for industrial and business development that provides opportunities for employment,*
- (j) to protect key infrastructure and ensure adequate integration of infrastructure and development,*
- (k) to maintain or improve the natural conservation and scenic amenity values of the land, including significant habitat areas and wildlife corridors.*

The proposal is consistent with these aims as the proposal will promote the use and development of the land for music and performing arts and is not out of character with the sites context in the Grafton heritage conservation.

Zoning and Permissibility (Part 2)

The site is located within the R1 General Residential Zone pursuant to Clause 2.2 of the LEP



Figure 10 zoning map (source: Council's Intramaps)

According to the definitions in Clause 4 (contained in the Dictionary), the proposal satisfies the definition of a Community Facility which is a permissible use with consent in the Land Use Table in Clause 2.3.

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.*

The proposal is considered to be consistent with these zone objectives as the proposal will provide a compatible land use that provides facilities that will aid in the social, cultural and intellectual development of the community.

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 4** below. The proposal does not comply with the development standard/s in Part 4 of the LEP and accordingly, a Clause 4.6 request has been provided with the application for the exceedance of the maximum building height.

Table 4: Consideration of the LEP Controls

Control	Requirement	Proposal	Comply
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Demolition requires development consent (CI 2.6)	he demolition of a building or work may be carried out only with development consent.	Relocation or demolition of structures is proposed as part of the application which require development consent.	Yes
Height of buildings (CI 4.3(2))	9 metres	The maximum height is 9.7m – a variation has been requested. See full assessment below.	No
Heritage (CI 5.10)	Consideration against the clause	The subject site is located within the North Grafton Heritage Conservation Area and is in proximity to 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 surrounded by 1980's-2000s modern brick buildings two storey commercial buildings with a mix of skillion and gabled roof structures. The proposal seeks consent for Alterations and Additions to the Clarence Valley Conservatorium including removal of an existing structure, demolition of ancillary outbuildings and signage which required submission of a Statement of Heritage Impact prepared by Permual Murphy Alessi Heritage Consultants – January 2025 (the SOHI). 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. 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 proposed development has been designed having regard to the residential 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	
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		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. 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 be prepared. Standard heritage discovery conditions were also recommended. 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</i>	
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		to result in the disturbance or harm to Aboriginal Heritage.' Appropriate conditions will be imposed regarding any unexpected finds including relics.	
Flood planning (CI 5.21)	(2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development— (a) is compatible with the flood function and behaviour on the land, and (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the	The subject site is within the flood planning area. The defined flood event is the <i>Lower Clarence River floodplain area (including Grafton to Yamba / Iluka)</i>, Council has adopted the 1% AEP 2090 Climate Change (RCP 4.5) scenario (derived from the <i>Lower Clarence Flood Model Update 2022</i>) as the <i>Defined Flood Event</i>, plus 500mm Freeboard. The proposed development will be classified as infill development in accordance with Clarence Valley Councils policy. The 1% AEP 2090 CC level for the site s shown as 7.6 to 7.7 metres AHD with a corresponding flood planning level of 8.2m AHD. 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	Yes

	surrounding area in the event of a flood, and (d) incorporates appropriate measures to manage risk to life in the event of a flood, and (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.	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 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 land 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.	
Acid sulfate soils (ASS) (CI 7.1)	On land classified as Class 4 ASS where works are proposed 2m	The applicant has indicated that there will be works below 2m of the natural ground	Yes

	below the natural ground surface or works by which the watertable is likely to be lowered, an ASS Management Plan is to be prepared.	surface however the initial structural design of the building and associated footing design is to use screw piers, therefore there will be no exposure or excavation of material for this development. Further investigations are not required.	
Earthworks (CI 7.2)	Development consent is required for earthworks on the site. (3) Before granting development consent for earthworks, the consent authority must consider the following matters— (a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality, (b) the effect of the proposed development on the likely future use or redevelopment of the land, (c) the quality of the fill or the soil to be excavated, or both, (d) the effect of the proposed development on the existing and likely amenity of	Due to the proposed footing/peer design being screw piers, earthworks associated with the development will be minimal. It is not expected that there will be impacts to existing drainage patterns and any earthworks required will be integrated into the building design which will not impact future use of the site. Relevant conditions will be imposed regarding the quality of any fill to be used, management of erosion and sediment control during works and potential for any relics to be found. The proposed works will therefore not have a detrimental impact on the locality or surrounding land.	Yes

	adjoining properties, (e) the source of any fill material and the destination of any excavated material, (f) the likelihood of disturbing relics, (g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.		
Essential services (CI 7.8)	Development consent is not to be granted unless the consent authority is satisfied that all of the essential services are 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	Yes



Figure 11 zoning map with heritage overlay – red hatching is the Grafton Conservation area, brown shading indicates heritage items (source: Council's Intramaps)

The proposal is considered to be generally consistent with the LEP with the exception of the variation sought to the maximum building height as discussed below.

Clause 4.6 Request

The Development Standard to be varied and extent of the variation

A Clause 4.6 Variation Request has been submitted to vary the Height of Building standard under Clause 4.3. Clause 4.6 allows the approval of development even though it may contravene a development standard imposed by the LEP or any other environmental planning instrument. In this case, the development standard being contravened is the 9m height maximum required by Clause 4.3 of the LEP. The proposed community facility has a maximum height of 9.7m. Therefore, it is proposed to exceed the standard by 0.7m at the highest point, being the screening associated with roof mounted mechanical plant and equipment.

Clause 4.6(2) provides this permissive power to grant development consent for a development that contravenes the development standard subject to conditions.

Clause 4.6(3) of the LEP establishes the grounds that must be satisfied before a consent authority can exercise the power to grant development consent for development that contravenes a development standard. This includes matters under clause 4.6(3)(a) and (b) in

relation to whether the proposal is unreasonable and unnecessary in the circumstances of the case and whether there are sufficient environmental planning grounds to justify contravening the development standard.

These matters are considered below for the proposed development having regard to the applicant's Clause 4.6 request

The applicant has submitted a written request (Attachment H) providing the following reasons that compliance with the development standard is unreasonable or unnecessary:

- The exceedance is limited solely to the mechanical plant and associated screening, which is centrally located on the roof, set well back from all boundaries, and not visible from public vantage points.
- The non-compliance will have no unreasonable or adverse impact on the surrounding area or adjoining properties.
- The additional height does not increase visual bulk, does not alter the perceived scale of the building, and does not adversely affect streetscape presentation
- The relevant objectives of Clause 4.3 continue to be achieved.
- The rooftop mechanical plant is essential to the building's operational performance. Strict compliance with the height standard would require relocating, reducing, or redesigning the plant in a manner that would compromise energy efficiency, acoustic performance, and internal functionality.
- The proposal achieves the objectives of Section 1.3 of the EP&A Act by delivering improved community infrastructure in an efficient and well-designed manner.

Comment

It has been demonstrated that the increase in height to allow part of the roof mounted mechanical plant, lift overrun and associated screening above the 9m height maximum does not result in any unreasonable bulk and scale that would cause significant impacts to the surrounding area. The proposed equipment has been recessed as far as practical into the roof structure without compromising other elements of the design. The structure is located mostly central on the section of the first floor roof which has been pushed to the rear of the lot, reducing any visual bulk from ground level and public spaces, ensuring the structure is not visually dominant or obstructing views for surrounding private properties. Additionally, the building itself is approximately 8.8m to the ridge which sits below adjoining structures that have approved heights of 9.5m to the ridge, albeit these lots are in a different zone with a 14m height limit. Lastly, the structure fits the existing environment of the site and remains consistent by way of design for the locality including heritage considerations.

The development is considered a compatible development for the land and is a permitted land use within the R1 General Residential zone. Overall, Council deems the proposal as consistent with the subject clause and the objectives of Clause 4.3, as listed above. For these reasons, it is considered that a variation to the development standards for height will not create undesirable precedents or cumulative impacts in the area. Therefore, there are sufficient environmental planning grounds to justify contravening the development standard and a variation to the height limit in this instance is supported.

Council staff are satisfied that the applicant's request has adequately demonstrated that a variation to the nine (9) metre height maximum is reasonable in this instance due to the proposal being an important community facility that is designed to be consistent with the streetscape and Heritage Conservation Area. The applicant has satisfactorily demonstrated there is no impact on the amenity of adjoining lots and there are no unreasonable impacts as a result of the non-compliance.

ii) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

The objectives of the R1 General Residential zone are:

- *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.*

The objectives of Clause 4.3 Height of Buildings are:

- (a) to maintain the low scale character of towns and villages in the Clarence Valley,*
- (b) to protect the amenity of neighbouring properties by minimising visual impact, disruption of views, loss of privacy and loss of solar access to existing development and to public land.*

The proposal is considered to be in the public interest as it is consistent with the zone objectives and will enhance an existing compatible land use that provides facilities that aid in the social, cultural and intellectual development of the community. Given the sites context and proximity to the Grafton Central Business District the increased height is not out of place and maintains the low scale character of the town without creating amenity issues for neighbouring lots.

In accordance with Planning Circular PS20-002, Council has assumed concurrence of the Secretary of NSW Department of Planning and Environment to grant approval to the variation of height required by Clause 4.3 of the LEP.

The contravention of the standard does not raise any matters of significance for state or regional planning.

in providing this enhanced facility for the area including additional teaching areas and increasing the flood resilience of the building far outweighs the benefits in maintaining the height limit standard as it allows the provision of a design that compliments the heritage conservation area and increased energy efficiency. The height will also enable adequate screening which will minimise impacts to amenity.

There are no other matters of significance required to be taken into consideration by the before granting consent.

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

N/A

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

The *Clarence Valley Residential Zones Development Control Plan 2011* ('the DCP') is relevant to this application. The proposal is seeking a number of variations to the DCP including building height, top plate height and setbacks (front and rear) which have been addressed in Section 5 Key Issues below and fully detailed in **Attachment B** Tables of Compliance. It should be noted that the DCP is aimed at residential development and does not have separate or specific controls for permitted non-residential land uses in residential zones.

Contributions

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):

- *Clarence Valley Local Infrastructure Contributions Plan 2025*

This Contributions Plan has been considered, Section 1.4 of the plan exempts Community Facilities from payment of local infrastructure contributions.

(d) Section 4.15(1)(a)(iia) – 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

Section 61 of the 2021 EP&A Regulation contains matters that must be taken into consideration by a consent authority in determining a development application, with the following matters being relevant to the proposal:

- Demolition of existing structures on-site and therefore the provisions of AS 2601 will apply and are considered in recommended conditions.
- Section 62 (consideration of fire safety) and Section 64 (consent authority may require upgrade of buildings) of the 2021 EP&A Regulation are relevant to the proposal.
- Clause 66A – No potential Conflicts of Interest were identified during assessment of the application.

These provisions of the 2021 EP&A Regulation have been considered and are addressed in the recommended draft conditions (where necessary).

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

The significant 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 redevelopment of the site is appropriate as a result of consideration of the Grafton Heritage Conservation area, and the local need for the project. The proposal is sympathetic to the character and streetscape and does not result in any significant impacts to adjoining properties. The land use is not proposed to change as it will still function as a performance space with increased teaching capacity.
- **Access and traffic** – The proposed development does not propose any additional parking on-site and will continue to rely on on-street car parking as it currently does. As assessed under the DCP, the proposal is not increasing the main assembly area

hence there is no requirement to provide additional on-site parking. Access to an accessible car parking space and a further two spaces are provided from Hickory Lane at the rear. The site has access to suitable public transport options and is unlikely to significantly increase parking demand or impact on the capacity of the road network.

- Public Domain – The proposal does not seek to provide additional or upgraded pedestrian links however access from the street to the building will be improved as a result of the development.
- Utilities – All utilities are available at the site. No upgrade to key utilities are required as a result of the proposal.
- Heritage – The site is within a Heritage Conservation Area and there are nearby Heritage Items to the north, south and west of the site. Extensive consideration of the impacts on heritage has been included in this report (including in the Key Issues section), including consideration of the Statement of Heritage Impact submitted with the application.
- Other land resources – nil.
- Water/air/soils impacts - Relevant conditions will be imposed regarding the quality of any fill to be used, management of erosion and sediment control during works and potential for any relics to be found. The proposed works will therefore not have a detrimental impact on the locality or surrounding land.
- Flora and fauna impacts – Planted gardens and trees will be removed and will therefore likely impact flora and fauna on a minor level, such as birds and invertebrates nesting in the trees. No threatened species have been identified. The proposal includes the replacement of gardens and increased plantings consistent with the existing plant palette which will negate any habitat lost.
- Natural environment – No significant impacts to the natural environment are envisaged by the proposal.
- Noise and vibration – The applicant has submitted an acoustic report to consider noise generated by the development. The report demonstrates that through the application of the proposed recommendations, the development is capable of complying with relevant noise criteria during the operational phase. Further detail will be required as part of the Construction Certificate once detail of all plant/equipment located on the roof is known.
- Natural hazards –The subject site is within the flood planning area. It is proposed to construct the building with flood compatible materials for the first floor 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 in 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.

- Safety, security and crime prevention – CPTED principles have been considered and implemented in the design of the building including internal layout and glazing which will promote passive surveillance and visibility to provide for a safer environment. Having a central reception area for visitors, regulating access to certain parts of the building by swipe card access and limitations on level of access within the building to authorised users will assist in controlling entry into the building. The conservatorium is a long established facility in Grafton with users having a strong connection to place which will reduce opportunities for anti-social behaviour.
- Social impact – the proposal will provide an improved community asset which will support participation in cultural and community activities to be promoted to a wider range of users.
- Economic impact – supporting the community of Grafton and surrounds by providing an improved community performance space may result in indirect economic benefit. For example, increasing the number of visitors and spending in Grafton. The improvements to the facility will assist in promoting Grafton as a destination for arts and entertainment which will have long term economic benefits.
- Site design and internal design – The proposal is set and located appropriately on the site given the constraints and surrounding development. The design responds to the heritage conservation area and does not dominate the streetscape or existing low set building on the site.
- Construction – Construction noise is mitigated by a condition imposing restricted construction hours. A Construction Management Plan is required prior to commencing works to mitigate impacts via traffic control and management.
- Cumulative impacts – the proposal will not result in any significant adverse cumulative impacts and is generally consistent with the planning controls.

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 proposed development is considered to fit within the locality, with particular consideration given to the Grafton Heritage Conservation Area, context of the site and surrounding commercial development in the immediate vicinity of the site. The site has access to all required services and infrastructure, is located in close proximity to public transport services and is not expected to place an unreasonable demand on these services. The site attributes such as zoning, location on the fringe of the Grafton town centre, adjoining uses are conducive to the development, and draft conditions have been included to protect the amenity of adjoining residences. The proposed development suitably addresses flooding constraints applicable to the site which is also reinforced through conditions of consent. On balance and having considered how the constraints applicable to the site have been addressed, the subject site is suitable for the proposed development and ongoing use of the site for the Conservatorium.

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

These submissions are considered in Section 5 of this report.

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

The development demonstrates compliance with the relevant SEPPs and LEP. With the exception of non-compliances with the LEP and DCP regarding building height and setbacks, the development meets the performances objectives of the LEP and DCP. The application satisfactorily addresses Council's criteria and would provide a development outcome that, on balance, would result in a positive impact for the community. The subject site is zoned R1 General Residential and the development meets the objectives of providing a compatible land use that provides facilities that aid in the social, cultural and intellectual development of the community. Approval of the development would be in the public interest.

The public interest is maintained by the proposal as it is generally consistent with the relevant state legislation, LEP and DCP as adopted by Council. The proposal remains consistent with the North Coast Regional Plan 2041 and is also consistent with the following objects of the Act:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application did not require referral to external agencies for comment/concurrence as required by the EP&A Act and outlined below in Table 5.

Table 5: 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			
			N/A.
Integrated Development (S 4.46 of the EP&A Act)			
			N/A.

4.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 6**.

Table 6: Consideration of Council Referrals

Officer	Comments	Resolved
Engineering	Council's Engineering Officer reviewed the Architectural Plans (Attachment E) and Stormwater Management Plan (ATTACHMENT K) and considered that there were no objections subject to conditions.	Yes (conditions)
Building	Satisfied that the proposed additions are capable of complying with the National Construction Code and Building Code of Australia. No objections subject to recommended conditions.	Yes (conditions)
Health	Council's Environmental Health Officer reviewed the Acoustic report (Attachment Q). While the acoustic report has been prepared in accordance with relevant Queensland legislation and guidelines, the assessment findings, and recommendations are suitable for assessing the proposal against applicable NSW legislative requirements which demonstrates compliance with relevant noise guidelines and criteria. No objections to proposal subject to conditions.	Yes (conditions)

The outstanding issues raised by Council officers are considered in the Key Issues section of this report.

4.3 Community Consultation

The proposal was notified in accordance with the Council's Community Participation Plan from 23 December 2025 until 9 February 2026. The notification included the following:

- A sign placed on the site;
- Notification letters sent to adjoining and adjacent properties (approximately 35 letters sent);
- Notification on the Council's website and inclusion in Council's weekly newsletter during the exhibition period.

The Council did not receive any submissions to the proposed development during the exhibition period.

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 Building Height

The maximum height of the proposal is 9.7m, while the Maximum Height of Buildings in this location nominated by Clause 4.3 is 9m in the LEP. A Clause 4.6 variation request has been submitted which addresses the reasoning for the proposed height (ATTACHMENT H). This has been discussed previously in this report.

It is considered that the following reasons are considered sufficient to vary the height:

- The built form is consistent with the surrounding streetscape and does not detract from the heritage conservation area,
- The building does not create unreasonable overshadowing, impact on views or impact solar access,
- The portion of the building exceeding the height is for roof mounted plant and equipment/screening which does not contribute to the bulk and scale of the building,
- The building addresses Villiers Street as a single storey development with the first floor set back from the road, and
- The nature and use of the building requires elevated ceilings for performance related activities and acoustics.

Resolution: The variation to the Maximum Height of Buildings clause is considered justified in this location and therefore acceptable.

5.2 Heritage

The removal or demolition of the existing building and proposed additions to the conservatorium, and the impacts on the Heritage Conservation Area and nearby local heritage items have been carefully considered in this report. A full assessment is provided under Clause 5.10 above, taking into account the Statement of Heritage Impact submitted with the application.

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.

It is recommended to condition the requirement to provide an archival report of the former dwelling including interpretative signage of the cottage within the new building and offer the building for relocation/sale, preferably within the local government area.

Resolution: The issue has been resolved through recommended conditions of consent as outlined in **Attachment A**.

5.3 Noise Assessment

The potential for noise to impact on the amenity of the area is an important consideration given the nature of the use. The application was accompanied by an Acoustic Report prepared by ADP, dated 28 November 2024 which considered this issue.

The Noise Report considered the noise and vibration impacts arising from the proposed operational development including noise emitted from the site from practice rooms and mechanical plant and acoustic attenuation of the building to prevent ingress of noise from external sources.

While the acoustic report has been prepared in accordance with relevant Queensland legislation and guidelines, the assessment findings and recommendations are suitable for assessing the proposal against applicable NSW legislative requirements. The report demonstrates compliance with relevant noise guidelines and criteria and noise levels are unlikely to be exceeded during the operational phase of the development. The report concluded that the development can proceed with acoustic treatments recommended in the report which are to be included in the recommended draft conditions of consent.

Resolution: The issue has been resolved through recommended conditions of consent as outlined in **Attachment B**.

5.4 Compliance with Planning Controls

The proposal seeks a number of variations to the DCP including building height, top plate height and setbacks (front and rear). It should be noted that the DCP is aimed at residential development and does not have separate or specific controls for permitted non-residential land uses in residential zones.

C13 Building Height

Building height is discussed under the Clause 4.6 assessment and Key Issue 5.1 above.

Under Clause C13.2, development in the residential zone has a maximum top plate height based on the specified maximum height of building. The maximum top plate height is 6.5m, the proposal is for approximately 7.6m.

This control is primarily in place to restrict residential development 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 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 and considering the proposed use.

C16 Setbacks

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)

Front: 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 and 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 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.

C19 Landscaped area

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. Under the DCP, all development in the R1 residential zones is to have a landscaped area of 45%.

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. The area comprises a 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 various parts of the building, including the principal point of entry 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.

Conclusion

On balance despite the proposal seeking a number of variations to the DCP including building height, top plate height and setbacks (front and rear) the development is overall generally consistent with the objectives of the relevant controls and the non-compliances do not have adverse impacts to adjoining properties or the streetscape.

5.5 Car Parking

The development provides for 3 onsite carparking spaces which is a reduction to the 5 current car spaces on-site. Commercial facilities are required to provide '*1 space per 10 seats or 1 space per 15m² of main assembly area, whichever is the greater*' under Part G of the DCP.

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. The site has access to nearby public transport opportunities and has strong pedestrian linkage for attendees of the facility to utilise for teaching/practice sessions or performances. It is observed that car parking demand and operational hours for the facility are at peak during after school hours and on weekends which will not adversely impact on the nature and volume of traffic in the surrounding street network. Additionally, the use does not conflict with other nearby commercial land uses, and is therefore considered acceptable.

Resolution: The provision of parking is considered justified in this location and therefore acceptable.

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 and the key issues identified in this report, it is considered that the application can be supported.

No key issues remain unresolved, the proposed development results in an appropriate urban design outcome within a Heritage Conservation Area and an improved community facility, the site is deemed suitable, and the proposal is compatible with the locality.

It is considered that the key issues as outlined in Section 5 have been resolved satisfactorily through additional information submitted by the applicant and in the recommended draft conditions at **Attachment A**.

7. RECOMMENDATION

That the Development Application DA2025/0523 for Alterations and Additions to the Clarence Valley Conservatorium including removal of an existing structure, demolition of ancillary outbuildings and signage at 8 Villiers Street be APPROVED pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979*, for the reasons listed below, and the Clause 4.6 Variation Request under the *Clarence Valley Local Environmental Plan 2011* be endorsed subject to the draft conditions of consent attached to this report at Attachment A.

- The development complies with the aims and development controls contained within the *Clarence Valley Local Environmental Plan 2011* and Residential Zones

Development Control Plan as applicable to the proposed development, or otherwise acceptable variations as outlined in this report.

- The development is consistent with the objectives of the zone.
- The development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The development is consistent with the objects of the *Environmental Planning and Assessment Act 1979*.

The following attachments are provided:

- Attachment A: Draft Conditions of consent
- Attachment B: DCP Compliance Table
- Attachment C - Statement of Environmental Effects – GeoLINK – 1 December 2025
- Attachment D - Response to Request for Information – GeoLINK – 22 April 2026
- Attachment E - Architectural Drawings – DRA Architects Pty Ltd – 13 April 2026
- Attachment F - Landscape Plan - GeoLINK – 21 November 2024
- Attachment G - Architectural Design Statement - DRA Architects Pty Ltd – 2 September 2025
- Attachment H - Section 4.6 Building Height Variation – GeoLINK – 21 November 2025
- Attachment I - AHIMIS Search – 20 February 2025
- Attachment J - Statement of Heritage Impact – Permual Murphy Alessi Heritage Consultants – January 2025
- Attachment K - Stormwater Management Report – Bridge Knowledge – 9 September 2025
- Attachment L - Site Waste Minimisation Plan – GeoLINK – undated
- Attachment M - BCA Compliance Report – McCarthy Consulting Group NSW Pty Ltd – 10 April 2025
- Attachment N - Access Report – iAccess Consultants – 13 February 2025
- Attachment O - Flood and Acid Sulphate Report – Bridge Knowledge – 16 September 2025
- Attachment P - EPBC Act Protected Matters Report – 14 November 2025
- Attachment Q - Acoustic Report – ADP – 28 November 2024
- Attachment R - Mechanical Services Report – Clarence Consultants Pty Ltd – 28 November 2024
- Attachment S - Hydraulic Services Report – Glen Haig & Partners – 14 February 2025
- Attachment T - Electrical Services Report - Clarence Consultants Pty Ltd 23 December 2023