

Monday 13 December 2021

To: Northern Regional Planning Panel
From: Lydia Charman
Subject: ADDENDUM MEMO: Development Application DA21/0312 - alterations and additions to an existing educational establishment, including demolition and tree removal (NRPP) at Lot 1 DP 517503; Kirkwood Road; Lot 2 DP 517503; Minjungbal Drive; Lot 219 DP 755740; No. 4-10 Heffron Street; Lot 1 DP 781510; Oxley Street, TWEED HEADS SOUTH
Reference: DA21/0312/PPSNTH-91

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[DAMemo]

Dear Panel,

Thank you for your feedback on Council's assessment report for the above application. Please see below Council's response to a number of questions in relation to the assessment report and draft conditions for DA21/0312/PPSNTH-91. Attachment 1 to this addendum memo is a complete updated suite of conditions.

The below is considered to address the concerns raised. The application is considered to have been assessed in accordance all applicable legislation. The addition of this memo as an addendum to the assessment report ensures clarity on all matters and conditions of consent.

1. Contamination

Panel Comments:

p.18/19 (and 60-62) contamination discussions and condition 31 – these appear at odds with the SEPP 55 statement at p.9 suggesting simply there is no contamination and the site is suitable for the development. Yet the assessment has identified a potential issue and has dealt with this through a suitable condition.

Response:

Upon review the following is advised:

- **Clause 7 of SEPP No 55 – Remediation of Land.** Clause 7 states that a consent authority must not consent to the carrying out of any development on land:
 - (a) *it has considered whether the land is contaminated, and*
 - (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
 - (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

Council is satisfied that that contaminants onsite are less than the assessment criteria (meeting HIL A criteria) and the total recoverable hydrocarbons (TRH) contamination encountered in groundwater are not considered to present a

significant health risk and the site is suitable for ongoing use as a high school. Whilst the report demonstrates the site is suitable for the proposed use, it recommended the dip bath be removed and disposed of to a suitably licensed waste facility. Accordingly, Council has also conditioned that this occur and a Site Remediation and Validation Report be submitted, and where required Environmental Management Plan, prepared by a suitably qualified environmental consultant in accordance with NSW Environment Protection Authority contaminated land statutory guidelines shall be submitted to the Principal Certifier confirming. This condition has been applied as a prior to commencement of works condition. Council officers are satisfied that the proposed development meets the provisions of clause 7 of SEPP 55;

2. Flooding

Panel Comments:

P.21 / 57 / 98 Flooding – page 57 again states that “**Notwithstanding, *the Flood Assessment provided with this DA confirms that should there be sufficient time for students and staff to evacuate the site in the event of a flood. And, in any event, there is a suitable flood refuge area located above the PMF level on site.***” Could we be directed to the source of this conclusion regarding evacuation in the 2019 - 2021 Meinhardt flood documents on the portal?

From my review, the main 2019 report concludes (p.15):

*“Provision of areas at or above 3.1m AHD around the buildings across the subject site shall also be taken into consideration. Consequently, safe evacuation to these levels must be provided **as there are often short warning periods when flood waters rise quickly. Most of the population in the subject site are students. It is therefore essential that they are aware of where the evacuation areas (designed at or above 3.1m AHD) are and informed on the safe evacuation means to these areas.***

As the minimum habitable level of 3.1m AHD is extremely lower than the PMF flood level of 5.7m AHD, means of evacuation to areas at or above 5.7m AHD should also be considered for the very rare and extreme storm events. One recommended measure is to propose additional second storey or other raised refuge areas at or above the PMF level for all school buildings. This will possibly give refuge to all occupants during PMF events in the future. Considerations on the possible evacuation of people in the surrounding areas of the subject site into the school buildings should be given thought as well as the evacuation of the occupants out of the school buildings during extended flooding events. A large number of roads including major ones are affected by flooding and can be a constraint in the evacuation process.”

So, for this particular DA, the 23 April 2021 letter from Meinhardt (p.2) then proposes reliance on existing building “L” on the site for refuge. How is this considered from a Council policy viewpoint and addressed in conditions? Has it been assessed for adequacy (size) / and suitability for this purpose?

Response:

Upon review the following is advised:

Probable Maximum Flood refuge is not required for a school, unless it has a residential component (the subject application does not).

A school is a non-habitable land use and one that is typically closed and vacated well in advance of the onset of any significant flooding. For this reason, Section A3 – Development of Flood Liable land of the Tweed DCP, does not include risk to life controls for schools and similar ‘educational establishment’ type land uses.

Council would not condition a requirement for a flood evacuation/action plan, in this context as it is not considered necessary (see above). Schools typically have their own operational plans and protocols that result in their closure well in advance of the onset of flooding.

Further to the above, Council do not rely upon flood action plans being used as conditions of consent to enable building on the floodplain. A flood action plan cannot satisfy the requirement for a permanent, failsafe, maintenance free measure to manage risk. This is a position shared by NSW State Emergency Service.

The development has already proposed floor levels for all new works to the minimum floor level for *habitable* development which is above the requirement for a development of this nature.

In summary:

Council would expect the schools to be closed and vacated well in advance of the onset of any significant flooding. Therefore, Council is satisfied that the schools occupants would be safe in the event of extreme flood events exceeding the Designated Flood Event, up to PMF.

3. Medium Density Zone Reference

p.102 again concludes that “*The subject site is zoned to provide a medium density residential use which is considered to be provided by this development. As such the proposal is considered to be in the public interest*”.

Obviously this is just an error.

Response:

Upon review the following is advised:

The proposed development is generally consistent with relevant environmental planning instruments and Council policy requirements. The proposal is considered suitable for the subject site, given its permissibility at this location. The subject site is zoned R2 Low Density Residential and the proposed additions and alterations to the existing Tweed River High School is considered to provide additional and upgraded facilities or services to meet the day to day needs of residents. As such the proposal is considered to be in the public interest.

4. Updated conditions:

Condition	Submitted	Amended	New Condition
5.	<p>Sewer manholes are present on this site. Manholes are not to be covered with soil or other material.</p> <p>Should adjustments be required to the sewer manhole, then applications for these works must be submitted on Council's standard Section 68 Application form accompanied by the required attachments and the prescribed fee</p>	<p>Consultation with Council shall be undertaken in relation to those matters typically covered through a section 68 process to ensure the relevant information is lodged, assessed and inspected by Council. The Assessment phase shall be undertaken within 40 business days of lodgement in accordance with the requirements of the Local Government Act 1993.</p>	5
9	<p>The applicant must consult with Tweed Shire Council under Section 68 of the Local Government Act in relation to any water, sewerage or drainage works (including connection of a private stormwater drain to a public stormwater drain or installation of erosion and sediment control works), prior to the commencement of any building works on the site.</p>	<p>The applicant must consult with Tweed Shire Council under in relation to any water, sewerage or drainage works (including connection of a private stormwater drain to a public stormwater drain or installation of erosion and sediment control works), prior to the commencement of any building works on the site.</p>	9
17	<p>The proposed sewer diversion works shall be generally designed and constructed in accordance with the MDA Consulting Engineers - Hydraulic Services Plan - Drawing MDA-HY-TRHS-0201-RevC . Detailed design information shall be provided to council for the assessment of these sewer diversion works. A Sewer Management Plan shall be submitted to support this application in demonstrating that the existing level of sewer service is maintained during construction. The application shall be submitted on Council's standard Section 68 Application form accompanied by the required attachments and the prescribed fee. The sewer diversion works shall not commence until prior separate approval to do so has been granted by Council under Section 68 of the Local Government Act.</p>	<p>The proposed sewer diversion works shall be generally designed and constructed in accordance with the MDA Consulting Engineers - Hydraulic Services Plan - Drawing MDA-HY-TRHS-0201-RevC . Detailed design information shall be provided to council for the assessment of these sewer diversion works. A Sewer Management Plan shall be submitted to support this application in demonstrating that the existing level of sewer service is maintained during construction.</p>	17
36	<p>If the development is likely to disturb or impact upon water or sewer infrastructure (eg: extending, relocating or lowering of pipeline), written confirmation from the service provider that they have agreed to the proposed works must be submitted to the Principal Certifying Authority prior to any</p>	<p>If the development is likely to disturb or impact upon water or sewer infrastructure (eg: extending, relocating or lowering of pipeline), written confirmation from the service provider that they have agreed to the proposed works must be submitted to the Principal Certifying Authority prior to any</p>	36

	works commencing. Applications for these works must be submitted on Council's standard Section 68 Application to Carry out Water Supply or Sewerage Work form accompanied by the required attachments and the prescribed fee. The arrangements and costs associated with any adjustment to water and wastewater infrastructure shall be borne in full by the applicant/developer. The Section 68 Application must be approved by Council prior to the commencement of works.	works commencing.	
37	<p>Permanent stormwater quality treatment shall be provided for the new car par subject to this consent in accordance with the following:</p> <p>(a) Prior to commencement of works a detailed Stormwater Management Plan (SWMP) for the occupational or use stage of the development prepared in accordance with Section D7.07 of Councils <i>Development Design Specification D7 - Stormwater Quality</i>.</p> <p>(b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils Development Design Specification D7 - Stormwater Quality.</p> <p>(c) The stormwater and site works may incorporate Water Sensitive Urban Design principles and where practical, integrated water cycle management.</p> <p>(d) Specific Requirements to be detailed within the Construction application include:</p> <ul style="list-style-type: none"> Runoff from all hardstand areas, (including access ramp, basement car parking and hardstand landscaping areas and 	<p>Permanent stormwater quality treatment shall be provided for the new car par subject to this consent in accordance with the following:</p> <p>(a) Prior to commencement of works a detailed Stormwater Management Plan (SWMP) for the occupational or use stage of the development prepared in accordance with Section D7.07 of Councils <i>Development Design Specification D7 - Stormwater Quality</i>.</p> <p>(b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils Development Design Specification D7 - Stormwater Quality.</p> <p>(c) The stormwater and site works may incorporate Water Sensitive Urban Design principles and where practical, integrated water cycle management.</p> <p>(d) Specific Requirements to be detailed within the Construction application include:</p> <ul style="list-style-type: none"> Runoff from all hardstand areas, (including access ramp, basement car parking and hardstand landscaping areas and 	37

	<p>excluding roof areas) must be treated to remove oil and sediment contaminants prior to discharge to the public realm. All permanent stormwater treatment devices must be sized according to Council's Development Design Specification D7 - <i>Stormwater Quality</i>, Section D7.12. Engineering details of the proposed devices, including maintenance schedules, shall be submitted with a s68 Stormwater Application for approval prior to commencement of works.</p> <ul style="list-style-type: none"> • Roof water does not require treatment, and should be discharged downstream of treatment devices, or the treatment devices must be sized accordingly 	<p>excluding roof areas) must be treated to remove oil and sediment contaminants prior to discharge to the public realm. All permanent stormwater treatment devices must be sized according to Council's Development Design Specification D7 - <i>Stormwater Quality</i>, Section D7.12. Engineering details of the proposed devices, including maintenance schedules, shall be submitted for approval prior to commencement of works.</p> <ul style="list-style-type: none"> • Roof water does not require treatment, and should be discharged downstream of treatment devices, or the treatment devices must be sized accordingly 	
45	<p>Prior to the commencement of sewer infrastructure works the applicant shall obtain approval to install a private commercial sewage ejection pump station under Section 68 of the Local Government Act 1993. The application shall be submitted with a Sewer Management Plan that includes but is not limited to the following information;</p> <ul style="list-style-type: none"> • System type and specifications including pump-well volume, pump specifications including pump curve information, and rising main size, length and location; • Details of operation and maintenance; • The sewer pump is to be constructed in a flood proof well with electrical equipment located above 1 in 100 ARI flood level; and • The pump shall have a maximum flow of 3.0 L/s 	DELETED	

	<p>(unless otherwise approved by Council's Water & Wastewater Unit).</p> <p>The applicant shall note:</p> <ul style="list-style-type: none"> • The sewer pump unit and rising mains for the development will be owned, maintained and operated by the property owner; • The design of sewer pumping station shall comply with the Water Services Association (WSA) standards WSA02-2002-2.3 or WSA07-2007 for Pressure Sewerage; • The sewer pumping station is to be constructed in a flood proof well with electrical equipment located above 1 in 100 ARI. Pumps should be designed to pump a minimum of less than every 8 hours to reduce septicity in the pump well and rising mains or as approved by Council's Water Unit. Pump system shall be sized for industrial/ commercial and not domestic requirements; • At least 24 hours emergency storage capacity shall be provided within the sewer pump system, or hours of storage equivalent to the operating hours of the commercial property per day; and • The maximum flow rate discharge from the sewage pump station shall not exceed 3.0L/sec (unless otherwise approved by Council's Water & Wastewater Unit). 		
66	During construction, a "Satisfactory Inspection Report" is required to be issued by Council for all s68h2 permanent Stormwater Quality Control Devices, prior to backfilling. The proponent shall liaise with Councils Engineering Division to arrange a suitable inspection.	During construction, a "Satisfactory Inspection Report" is required to be issued by Council for all permanent Stormwater Quality Control Devices, prior to backfilling. The proponent shall liaise with Councils Engineering Division to arrange a suitable inspection.	65
79	Prior to occupation of the final building the subject of this consent, the applicant shall obtain	Prior to occupation of the final building the subject of this consent, the applicant shall obtain	78

	approval to operate the private commercial sewage ejection pump station under Section 68 of the <i>Local Government Act 1993</i> .	Council approval to operate the private commercial sewage ejection pump station	
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Lydia Charman
Development Assessment Unit
Tweed Shire Council