

## DETERMINATION AND STATEMENT OF REASONS

### NORTHERN REGIONAL PLANNING PANEL

<b>DATE OF DETERMINATION</b>	20 December 2021
<b>DATE OF PANEL DECISION</b>	19 December 2021
<b>PANEL MEMBERS</b>	Penny Holloway (Chair), Stephen Gow, Marcia Doheny, Ned Wales and John Byrne
<b>APOLOGIES</b>	Paul Mitchell and Stephen Phillips
<b>DECLARATIONS OF INTEREST</b>	None

Papers circulated electronically on 9 December 2021.

#### MATTER DETERMINED

PPSNTH-92 – Tweed – DA21/0244 at 4-10 Heffron St, Tweed Heads South – alterations and additions to the existing Tweed Heads South Public School (as described in Schedule 1)

#### PANEL CONSIDERATION AND DECISION

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

#### Application to vary a development standard

Following consideration of a written request from the applicant, made under cl 4.6 (3) of the *Tweed Local Environmental Plan 2012 (TLEP 2012)*, that has demonstrated that:

- a) compliance with cl.4.3 (Height of buildings) is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard.

The Panel is satisfied that:

- a) the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the *LEP*; and
- b) the development is in the public interest because it is consistent with the objectives of cl.4.3 (Height of buildings) and the objectives for development in the R2 zone; and
- c) the concurrence of the Secretary has been assumed.

#### Development application

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

The decision was unanimous.

#### REASONS FOR THE DECISION

The panel determined to uphold the Clause 4.6 variation to building height; and approve the application for the following reasons:

1. The proposal is consistent with the objectives of the R2 (Low Density Residential) zone and objectives of the development standards for height and floor space ratio under Tweed Shire Local Environment Plan 2014 and the objectives of the Tweed Shire Development Control Plan.

2. The proposed development meets Clause 35(6) and Schedule 4 of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 and is consistent with the design quality principles for an educational building facility.
3. The proposed development has minimal impact on adjoining properties as it is within a school and community precinct.
4. Acid sulfate soils will be managed in accordance with an approved Acid Sulfate Soil Management Plan.
5. Adequate arrangements are proposed for the management of traffic, parking and drop-off and pick-up of students.
6. The Panel notes that the existing School campus is flood prone and that the design will incorporate an above PMF flood refuge for use by the School community if required. Nevertheless the Panel is advised by the Council that no further special flood management protocols are required for this non-habitable development pursuant to Council's DCP A3.
7. The concurrence of the Crown applicant has been received to the proposed conditions of consent.
8. The proposed development improves the provision of educational services and is in the public interest.

#### **Panel comments**

The Panel notes the importance of schools as community infrastructure which can form a positive element in the lives of students and the broader community.

There is a complex series of current applications for this site and the lack of information about the overall plans for the site made it challenging for the Panel to understand this proposal in context.

It would assist in assessing future applications if development applications could be accompanied by more contextual and strategic information. This should include a description of all existing and future development proposals for the site including a copy of any masterplan and information about how each proposal will:

1. Deliver climatically appropriate built forms;
2. Enhance the relationship with and engagement by its surrounding community;
3. Have regard to Aboriginal culture;
4. Include public surveillance and enhance the safety of surrounding areas;
5. Connect to adjoining facilities; and
6. Facilitate flexibility, expansion and/or future change in desirable ways.

Detailed information about student and community engagement in the development of designs is also important.

#### **CONDITIONS**






The development application was approved subject to the conditions attached to the Council memorandum dated 14 December 2021.

## CONSIDERATION OF COMMUNITY VIEWS

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

- Provision of adequate shade trees

The panel considers that concerns raised by the community have been adequately addressed in the assessment report.

PANEL MEMBERS	
 Penny Holloway (Chair)	 Stephen Gow
 Marcia Doheny	 Ned Wales
 John Byrne	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSNTH-92 – Tweed – DA21/0244
2	PROPOSED DEVELOPMENT	Alterations and additions to the existing Tweed Heads South Public School
3	STREET ADDRESS	4-10 Heffron St, Tweed Heads South
4	APPLICANT/OWNER	Department of Education
5	TYPE OF REGIONAL DEVELOPMENT	Crown development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"><li>• Environmental planning instruments:<ul style="list-style-type: none"><li>○ State Environmental Planning Policy - Remediation of Land</li><li>○ State Environmental Planning Policy – (Coastal Management) 2018</li><li>○ State Environmental Planning Policy - (Infrastructure) 2007</li><li>○ State Environmental Planning Policy - (Education and Childcare) 2017</li><li>○ State Environmental Planning Policy - (State and Regional Development) 2011</li><li>○ State Environmental Planning Policy - (Koala Habitat Protection) 2020</li><li>○ Tweed Local Environmental Plan 2014</li></ul></li><li>• Draft environmental planning instruments: Nil</li><li>• Development control plans:<ul style="list-style-type: none"><li>○ Tweed Development Control Plan</li></ul></li><li>• Planning agreements: Nil</li></ul>

		<ul style="list-style-type: none"> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil</li> <li>• Coastal zone management plan: Nil</li> <li>• The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>• The suitability of the site for the development</li> <li>• Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>• The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>• Council assessment report: 8 December 2021</li> <li>• Request to vary Clause 4.3 (Height of Buildings): 3 February 2021</li> <li>• Council memorandum: 14 December 2021</li> <li>• Written submissions during public exhibition: one (1)</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Briefing: 18 August 2021 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Paul Mitchell (Chair), Penny Holloway, Stephen Gow and Ned Wales</li> <li>○ <u>Council assessment staff</u>: Colleen Forbes, Michael Banks, Vince Connell and Lindsay McGavin</li> <li>○ <u>Department staff</u>: Jane Gibbs, Amanda Moylan and Lisa Foley</li> </ul> </li> <li>• Final briefing to discuss council's recommendation: 16 December 2021 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Penny Holloway (Chair), Stephen Gow, Marcia Doheny, Ned Wales and John Byrne</li> <li>○ <u>Council assessment staff</u>: Lydia Charman, Angie Cousens and Colleen Forbes</li> <li>○ <u>Department staff</u>: Carolyn Hunt and Lisa Foley</li> </ul> </li> <li>• Applicant Briefing: 16 December 2021 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Penny Holloway (Chair), Stephen Gow, Marcia Doheny, Ned Wales and John Byrne</li> <li>○ <u>Council assessment staff</u>: Lydia Charman and Colleen Forbes</li> <li>○ <u>Department staff</u>: Carolyn Hunt and Lisa Foley</li> <li>○ <u>Applicant representatives</u>: Gareth James, Lincoln Lawler, Michael Tully, Lauren Choong, Glenn O'Loughlin and Andrew Eke</li> </ul> <p><u>Note</u>: Applicant briefing was requested to respond to the recommendation in the council assessment report</p> </li> </ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council memorandum dated 14 December 2021