

DATE OF DETERMINATION	22 December 2023
DATE OF PANEL DECISION	22 December 2023
PANEL MEMBERS	Chris Wilson (Chair), Susan Budd, Lindsay Usher
APOLOGIES	Amber Schutz
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 18 December 2023.

MATTER DETERMINED

PPSSTH-169 – Eurobodalla - DA0078/23 - 61 Train Street, Broulee – Alterations and additions to existing educational establishment ‘St Peter’s Anglican College’ Broulee (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.

The Panel held a Public meeting on 25 October 2023 and deferred its decision to allow for further information to be provided by Council for the Panel’s consideration. This information related to the following:

1. Revised NSW Rural Fire Service, ‘General Terms of Approval’ confirming APZ requirements for building P10 are wholly located within the site.
2. Confirmation that the updated traffic arrangements provided by the applicant had been referred to TfNSW and that any comments provided by TfNSW had been addressed.
3. Consideration of the safety and manoeuvrability aspects for vehicles entering the staff car park (P4) from the east, using the roundabout, and clarification of traffic control arrangements for this intersection.
4. A statement confirming that the precondition to the grant of consent established by Chapter 4: Koala Habitat Protection 2021, Clause 4.9(2) of SEPP Biodiversity and Conservation (2021) had been satisfied with regard to the likely impact the development on koalas and/or koala habitat.
5. Details of the location of mechanical plant for P10 and justification for the proposed acoustic wall.
6. Consideration of the potential glint and glare impacts from building P10 on residential receptors particularly to the east.
7. Consideration of opportunities for additional landscaping to provide a more sympathetic outlook for residents located to the east of building P10 taking into consideration the need to establish the APZ.
8. Further detail relating to proposed landscaping treatments including location, species type, maturity, and maintenance.
9. Updated draft conditions of consent which include:
 - a. Various administrative amendments throughout the document to ensure clarity of intent, timing and operation of the recommended conditions.
 - b. Clarification of the intent and content of the required Plan of Management for the facility with a focus on the out of school hours use of P10;
 - c. The provision of a dilapidation report to provide a reference point for any public asset rectification works; and
 - d. The inclusion of any updated reports (i.e. acoustic report) and approved landscape plans in the appropriate schedule.

Council provided an Addendum Assessment Report, updated attachments and revised draft conditions of consent addressing the above matters on 15 December 2023.

Application to vary a development standard

Following consideration of a written request from the applicant, made under cl 4.6 (3) of the Eurobodalla Local Environmental Plan 2012 (LEP), 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) of the LEP and the objectives for development in the R2 Low Density Residential 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*.

REASONS FOR THE DECISION

The Panel determined to approve the development application for the reasons outlined in the Council Assessment Report, and the Addendum Assessment Report submitted on 15 December 2023. In doing so, the Panel determined to uphold the request under Clause 4.6 to contravene the building height.

The Panel was satisfied that:

- The prerequisites for the grant of consent had been met;
- Key issues of concern raised by the Panel, particularly those relating to the interface between P10 and residences along the eastern boundary, had been satisfactorily resolved. This included key design amendments being:
 - relocation of the mechanical plant room;
 - deletion of the proposed acoustic wall;
 - additional visual screening between the eastern fence line and P10; and
 - amendments to the façade of P10 to adopt a low glare finish.
- The development would contribute to the educational needs of the region and provide access for both the school and broader community to additional community facilities;
- The amended conditions of consent would address residual impacts and ensure the development would not result in any unacceptable amenity, environmental or land use safety impacts; and
- A thorough assessment in terms of Section 4.15 of the *Environmental Planning and Assessment Act, 1979* had been undertaken.

Given the above, the Panel was satisfied that the development was in the public interest.

The decision was unanimous.

CONDITIONS

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

- Condition 1 was amended to ensure the condition incorporates all plans lodged including additional documentation submitted in response to the Panel's raised at the Determination meeting;
- Several conditions were amended to clarify the reasons for the imposition of the relevant conditions;

- Several conditions were also amended to clarify which entity must be satisfied in terms of the preparation and/or implementation of the relevant requirements of the condition (i.e. Council or Principal Certifier);
- Condition 22 was amended to include the type of plans to be submitted in this case stormwater disposal plans;
- A new condition (32) was included requiring the preparation of a dilapidation report detailing the structural condition of adjoining buildings, structures or works and public land to the satisfaction of the Principal Certifier;
- Condition 32 (now 33) was amended to ensure recommendations in all documents approved under the consent were implemented;
- Condition 41 (now 42) was amended to ensure all construction related recommendations in all documents approved under the consent were implemented;
- Condition 54 (now 55) was amended to ensure the Access Management Plan required approval, in this case by Council;
- Condition 75 (now 76) was amended to ensure that any noise monitoring undertaken in support of any extended operational hours for P10 is representative of a major event;
- Condition 80 (now 81) relating to the Plan of Management was amended to strengthen the management measures applicable to the out of hours operation of P10; and
- Several typographical errors were corrected noting that these changes do not alter the intent of the relevant conditions.

The Addendum Assessment Report provided by Council included a final version of conditions, which included changes requested by the Panel, as Attachment A. The Panel notes that recommended changes to Conditions 22, 23, 24, 25, and 55 (now 56) to ensure clarity of what was required, and to whose satisfaction, have not been made. The Panel requests that Council make these changes before issuing the approval.

To ensure clarity, the Panel also requires the following additional administrative amendments to the following conditions before issuing the approval:

- Condition 19 *Landscape Plan*
Delete reference to Landscape Plan (Job 22105, Revision C, Drawing 302) and replace with *Job 22105, Revision H, Drawing 302*.
- Condition 21 *Species Credit Retirement Conditions*
Delete redundant (b) at the beginning of paragraph b).
- Condition 29 *Construction Management Plan*
Delete duplicated use of "provided" to read as '*a CSMP must be prepared and provided to the Certifier*'.
- Condition 41 *Implementation of the Biodiversity Management Plan*
Delete the words '*do not*' and replace with '*must not*'.


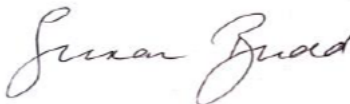

CONSIDERATION OF COMMUNITY VIEWS

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:

- Architectural plans
- Landscaping plans
- Stormwater Concept plans
- Design Report
- Aboriginal Cultural Heritage Due Diligence
- Access Report
- Acoustic Report
- BCA Compliance Report
- Biodiversity Development Assessment Report
- Clause 4.6 Variation request
- Cost estimate report

- Design Quality Statement
- Preliminary Environmental Site Investigation Report
- Statement of Environmental Effects
- Safer by Design report
- Social Benefit Assessment
- Traffic Report
- Vegetation Management Plan
- Visual Impact Assessment
- Waste Management Plan

The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report, the Addendum Assessment Report, and the amended conditions of consent.

PANEL MEMBERS	
 Christopher Wilson (Chair)	 Susan Budd
 Lindsay Usher	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSTH-169 – Eurobodalla - DA0078/23
2	PROPOSED DEVELOPMENT	Alterations and additions to existing educational establishment ‘St Peter’s Anglican College’ Broulee
3	STREET ADDRESS	Lot 1 DP1037342 [61 Train Street Broulee]
4	APPLICANT/OWNER	Iain Davidson / COLLIERS INTERNATIONAL HOLDINGS (AUSTRALIA) LTD
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy (Resilience and Hazards) 2021 ○ True State Environmental Planning Policy (Biodiversity and Conservation) 2021 ○ True State Environmental Planning Policy (Planning Systems) 2021 ○ True State Environmental Planning Policy (Transport and Infrastructure) 2021 ○ Eurobodalla Local Environmental Plan 2012 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Eurobodalla Residential Zone Development Control Plan 2011 • Planning agreements: Nil • Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> • Coastal zone management plan: Nil • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations • The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council Assessment Report: 6 October 2023 • Council Addendum Assessment Report: 15 December 2023 • Clause 4.6 request seeking to contravene the development standard in relation to Height of Building • Written submissions during public exhibition: 17 • Total number of unique submissions received by way of objection: 10
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 7 December 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Acting Chair), Renata Brooks, Tim Fletcher, Amber Shutz, Lindsay Usher ○ <u>Council assessment staff</u>: Catherine Watkins, David Meagher, Garry Bruce ○ <u>DPE</u>: Sung Pak • Site inspection: 3 May 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Chair), Susan Budd, Amber Schutz, Lindsay Usher ○ <u>Council assessment staff</u>: Catherine Watkins, David Meagher, Gary Bruce, Alistair Robinson • Council / Applicant Briefing: 3 May 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Chair), Susan Budd, Amber Schutz, Lindsay Usher

		<ul style="list-style-type: none"> ○ <u>Council assessment staff</u>: Catherine Watkins, David Meagher, Gary Bruce, Alistair Robinson ○ <u>Applicant representatives</u>: Ian Davidson (Colliers), Michael Taurasi (Colliers), John Clague (Rygate and West), Chris Coath (Stantec), Ingrid Bissaker (Stantec) ○ <u>Other</u>: Amanda Moylan (DPE), Chris Millett (TfNSW) <ul style="list-style-type: none"> ● Final briefing to discuss council's recommendation: 25 October 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Chair), Susan Budd, Amber Schutz ○ <u>Council assessment staff</u>: Catherine Watkins, Gary Bruce ○ <u>Other</u>: Amanda Moylan (DPE), Tracey Gillett (DPE), Tim Mahoney (DPE)
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Addendum Assessment Report