



18 June 2024

Department of Planning, Industry and  
Environment  
Attention: Adam Flynn

Contact: Peter Giannopoulos  
Our Ref: 52 2022 1  
Your Ref: SSD-10360337

Dear Adam

**Response to Amendment Report EXH-71386459 - SSD-10360337 – 52/2022/1  
Description of Development - Additions to Cessnock's St Philip's Christian College**

I refer to the abovementioned project, that was referred for comment on the 3 June 2024.

Please find below Council's comments in relation to this matter:

1. Council has previously articulated its concerns in respect to the permissibility of the Aquatic Centre. That the Aquatic Centre may be used in a manner that it will not be ancillary to the school and that it may constitute a 'recreation facility (indoor)' which is prohibited in the zone. Council requests that consideration be given to the characterisation of the development and, if the application is approved, to include enforceable conditions that will ensure the Aquatic Centre is used only as an ancillary component of the school.
2. Council has previously advised of concerns in respect to the flood impacts and the consequential risks to human life and property. Suitable consideration should be given to the assessment of flooding and the application of suitable conditions. It should be noted that the applicant's submission states that Cessnock Council has not adopted clause 5.22 of the standard instrument. This statement is not current and it should be noted that Clause 5.22 of the Cessnock Local Environmental Plan 2011 reads:

**5.22 Special flood considerations**

**(1) The objectives of this clause are as follows—**

- (a) to enable the safe occupation and evacuation of people subject to flooding,*
- (b) to ensure development on land is compatible with the land's flood behaviour in the event of a flood,*
- (c) to avoid adverse or cumulative impacts on flood behaviour,*
- (d) to protect the operational capacity of emergency response facilities and critical infrastructure during flood events,*
- (e) to avoid adverse effects of hazardous development on the environment during flood events.*

**(2) This clause applies to—**

- (a) for sensitive and hazardous development—land between the flood planning area and the probable maximum flood, and*

- (b) for development that is not sensitive and hazardous development—land the consent authority considers to be land that, in the event of a flood, may—
  - (i) cause a particular risk to life, and
  - (ii) require the evacuation of people or other safety considerations.

(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority has considered whether the development—

- (a) will affect the safe occupation and efficient evacuation of people in the event of a flood, and
- (b) incorporates appropriate measures to manage risk to life in the event of a flood, and
- (c) will adversely affect the environment in the event of a flood.

(4) A word or expression used in this clause has the same meaning as it has in the *Considering Flooding in Land Use Planning Guideline* unless it is otherwise defined in this clause.

(5) In this clause—

*Considering Flooding in Land Use Planning Guideline*—see clause 5.21(5).

*flood planning area*—see clause 5.21(5).

*Flood Risk Management Manual*—see clause 5.21(5).

*probable maximum flood* has the same meaning as in the *Flood Risk Management Manual*.

*sensitive and hazardous development* means development for the following purposes—

- (a) boarding houses....
- (f) educational establishments...

3. Council requests that a condition of consent be included to require the payment of a contribution in accordance with Council's contributions plan. Councils standard condition in respect to the requirement for contributions under section 7.12 is:

#### **Cessnock Section 7.12 Levy Development Contributions Plan**

A total monetary contribution of \$ (insert her amount to the value of 1% of the cost of the development) (Fee Type Code - 499) is to be paid to Council, pursuant to Section 7.12 (cf previous s 94A) of the *Environmental Planning and Assessment Act 1979*, such contribution is to be paid prior to the issue of a Construction Certificate in respect of the proposed development.

- i) This condition is imposed in accordance with the provisions of *Cessnock S94A Levy Development Contributions Plan 2017*. A copy of the document is available on Council's website at [www.cessnock.nsw.gov.au](http://www.cessnock.nsw.gov.au) or maybe inspected at Councils' Customer Services Section, Administration Building, Vincent Street Cessnock.
- ii) The amount of contribution payable under this condition has been calculated on the basis of the current rate as at the date of consent and is based on the most recent quarterly Consumer Price Index (CPI) release made available by the Australian Bureau of Statistics (ABS). The CPI index rate is expected to rise at regular intervals and therefore the actual contribution payable is indexed and recalculated at the CPI rate applicable on the day of payment.

CPI quarterly figures are released by the ABS on a date after the indexation quarter and as a guide, these approximate dates are provided below. Indexation quarters from the ABS are as follows:

Indexation quarters	Approx release date
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September	Late October
December	Late January
March	Late April
June	Late July

Any party intending to act on this consent should contact Council to determine the indexed amount of contribution on the date of payment.

**NOTE: PRIOR TO PAYMENT OF ANY CONTRIBUTIONS, PLEASE CONTACT COUNCIL'S STRATEGIC PLANNING ASSISTANT ON 02 4993 4293 TO OBTAIN AN UP-TO-DATE AMOUNT PAYABLE FIGURE. AT THAT TIME, WE WILL ADVISE HOW YOUR CONTRIBUTIONS CAN BE PAID.**

Thank you for the opportunity to contribute to the project. These comments are purposely general in nature, as Council seeks merely to assist with the assessment. If further comments or advice may assist with the assessment, feel free to contact me directly on telephone (02) 4993 4112 or via email [peter.giannopoulos@cessnock.nsw.gov.au](mailto:peter.giannopoulos@cessnock.nsw.gov.au)

Yours faithfully



Peter Giannopoulos  
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