



Prepared for  
NSW Department of Education

Date  
14 April 2022

Appendix C Statutory Compliance

# Murwillumbah Education Campus

Architectus Australia Pty Ltd  
ABN 90 131 245 684

Adelaide  
Level 1, 15 Leigh Street  
57 Wyatt Street  
Adelaide SA 5000  
T +61 8 8427 7300  
adelaide@architectus.com.au

Brisbane  
Level 2, 79 Adelaide Street  
Brisbane QLD 4000  
T +61 7 3221 6077  
brisbane@architectus.com.au

Melbourne  
Level 25, 385 Bourke Street  
Melbourne VIC 3000  
T +61 3 9429 5733  
melbourne@architectus.com.au

Perth  
QV1 Upper Plaza West  
250 St Georges Terrace  
Perth WA 6000  
T +61 8 9412 8355  
perth@architectus.com.au

Sydney  
Level 18, 25 Martin Place  
Sydney NSW 2000  
T +61 2 8252 8400  
sydney@architectus.com.au

architectus.com.au

### Report Contact

Jane Fielding  
Senior Associate, Planning  
jane.fielding@architectus.com.au

14 April 2022

### Revision history

Issue Reference	Issue Date	Issue Status
A	21 January 2022	Draft
B	8 March 2022	Test of Adequacy
C	14 April 2022	Final

File Ref: architectus.local\DFS\Projects\200466.00\Docs\C\_Client\EIS\

# Contents

1. Statutory Requirements	4
2. Compliance with Controls	5
2.1 Environmental Planning and Assessment Act 1979 & Environmental Planning and Assessment Regulation 2021	5
2.2 Biodiversity Conservation Act 2016	7
2.3 State Environmental Planning Policy (Planning Systems) 2021	7
2.4 State Environmental Planning Policy (Transport and Infrastructure) 2021	8
2.5 State Environmental Planning Policy (Resilience and Hazards) 2021	10
2.6 State Environmental Planning Policy (Industry and Employment) 2021	11
2.7 State Environmental Planning Policy (Biodiversity and Conservation) 2021	11
2.8 Tweed Local Environmental Plan 2014	12
2.9 Tweed Development Control Plan 2008	18
2.10 Development Contributions	18

# 1. Statutory Requirements

To satisfy the requirements of Section 4.15(1) of the Environmental Planning and Assessment Act 1979 (EP&A Act), this EIS includes references to statutory requirements that govern the carrying out of the project and have been taken into consideration in the environmental assessment of the proposed development.

The statutory requirements that have been assessed against the proposed development are:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- Biodiversity Conservation Act 2016;
- State Environmental Planning Policy (Planning Systems) 2021;
- State Environmental Planning Policy (Transport and Infrastructure) 2021;
- State Environmental Planning Policy (Resilience and Hazards) 2021;
- State Environmental Planning Policy (Biodiversity and Conservation) 2021;
- State Environmental Planning Policy (Industry and Employment) 2021; and
- Tweed Local Environmental Plan 2014.

## 2.

# Compliance with Controls

### 2.1 Environmental Planning and Assessment Act 1979 & Environmental Planning and Assessment Regulation 2021

#### Objects of the Environmental Planning and Assessment Act 1979

The objects of the EP&A Act are the underpinning principles upon which the assessment is conducted. The statutory powers in the EP&A Act (such as the power to grant consent) are to be understood as powers to advance the objects of the legislation, and limits on those powers are set by reference to those objects. Therefore, in making an assessment, the objects should be considered to the extent they are relevant.

A response to the objects of the EP&A Act is provided at **Table 1**.

**Table 1 Objects of the Act**

Objects of the EPA Act	Consideration
(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,	The site is suitable for use as an educational establishment and the redevelopment would not unreasonably negatively impact the economic welfare of the community, or the natural environment.
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	The proposed development aligns with targeted initiatives under the Green Star scorecard and proposes a 4-star Green Star Design and As Built equivalency design. Refer to the Green Star Scorecard appended to the ESD report, at <b>Appendix W</b> .
(c) to promote the orderly and economic use and development of land,	The proposed development is an orderly and economic development and use of the land as it is consistent with the sites' existing use as an educational establishment and would improve educational facilities to support demand.
(d) to promote the delivery and maintenance of affordable housing,	This item is not relevant to the proposed development.
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,	Impacts of tree removal have been appropriately mitigated or are addressed through new habitat opportunities created by additional planting.
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	An Aboriginal Cultural Heritage Assessment Report (ACHAR) ( <b>Appendix K</b> ) is appended to the EIS which identified no known Aboriginal sites, objects or Potential Archaeological Deposits located within the study area or proposed development footprint. The site is not identified as, nor located within proximity to, any local or state (or draft) heritage items. Further, the site is not located within, nor within proximity to, any heritage conservation area.
(g) to promote good design and amenity of the built environment,	The proposed development will promote good design and amenity of the built environment. Refer to the Architectural design statement and plans ( <b>Appendix G and Appendix H</b> ).
(h) to promote the proper construction and maintenance of buildings, including the	The proposed development will promote proper construction and maintenance of the buildings.

protection of the health and safety of their occupants,	
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	Consultation has been undertaken with Council and other public authorities and consideration of their responses incorporated into the design. Refer to the consultation report at <b>Appendix N</b> .
(j) to provide increased opportunity for community participation in environmental planning and assessment.	Consultation with local community members has been undertaken as part of the Social Impact Assessment (SIA). Refer to <b>Appendix M</b> .

### Ecologically Sustainable Development

The Environmental Planning and Assessment Regulation 2021 (EP&A Regulation) adopts the definition of ESD found in the Protection of the Environment Administration Act 1991. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- The precautionary principle;
- Inter-generational equity;
- Conservation of biological diversity and ecological integrity; and
- Improved valuation, pricing and incentive mechanisms.

The proposed development is consistent with ESD principles as described in Section 6.8 and **Appendix W** of the EIS, which has been prepared in accordance with the requirements of Section 193 of the EP&A Regulation.

### Environmental Planning and Assessment Regulation 2021

The EIS has addressed the criteria within Sections 190 and 192 of the EP&A Regulation. Refer to **Appendix B** for an outline of how the SEARs have been addressed within the EIS.

### Section 4.15(1) matters for consideration

Section 4.15(1) of the EP&A Act identifies the matters for consideration that apply to State Significant Development (SSD) in accordance with section 4.40 of the EP&A Act. Table 2 represents a summary for which additional information and consideration is provided in Section 6 (Assessment) of the EIS and relevant appendices.

**Table 2 Section 4.15(1) EP&A Act matters for consideration**

Section 4.15(1) EP&A Act Evaluation	Consideration
(a)(i) any environmental planning instrument	Satisfactorily complies. Consideration of the relevant Environmental Planning Instruments (EPIs) is provided in <b>Appendix C</b> .
(a)(ii) any proposed instrument	Satisfactorily complies. Consideration of the relevant EPIs is provided in Section 2 of this appendix.
(a)(iii) any development control plan (DCP)	Under Section 210 of the Planning Systems SEPP, DCPs do not apply to SSD. Notwithstanding, the relevant provisions of the Tweed Development Control Plan DCP 2014 (DCP) have been considered in Section 2.13 of this appendix.
(a)(iii) any planning agreement	Not applicable.
(a)(iv) the regulations	The application satisfactorily meets the relevant requirements of the EP&A Regulation.

(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	The impacts of the proposed development have been assessed (refer Section 6 of EIS) and appropriately mitigated (refer <b>Appendix D</b> for mitigation measures).
(c) the suitability of the site for the development	The site is suitable for the development as discussed in Section 6 of the EIS.
(d) any submissions	Consideration has been given to the submissions received during the community consultation period. Refer to Section 5.4 of EIS which summarises issues raised by community members.
(e) the public interest	Refer to Sections 6 and 7 of the EIS.

## 2.2 Biodiversity Conservation Act 2016

Under section 7.9(2) of the Biodiversity Conservation Act 2016 (BC Act), SSD applications are “*to be accompanied by a biodiversity development assessment report (BDAR) unless the Planning Agency Head and the Environment Agency Head determine that the proposed development is not likely to have any significant impact on biodiversity values*”.

A BDAR was prepared by EMM and is provided at **Appendix O**. The BDAR has considered impacts on species and ecological communities listed under the BC Act. The development is expected to result in no significant impacts to any Threatened Ecological Communities (TECs) or threatened species. In addition, no TECs or ecological communities identified as being vulnerable to Serious and Irreversible Impacts (SAILs) were identified within the site. As such, the development is unlikely to be a ‘controlled action’ and no referral is necessary.

The BDAR does not identify the requirement for any biodiversity offset contributions.

## 2.3 State Environmental Planning Policy (Planning Systems) 2021

The aims of Chapter 2 State and Regional Development of the State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP) are to identify SSD and State Significant Infrastructure and confer the necessary functions to joint regional planning panels to determine development applications. An assessment of the development against the relevant considerations of the Planning Systems SEPP is provided in **Table 3**.

**Table 3 Relevant clauses of Planning Systems SEPP**

Clause	Response
<b>2.6 Declaration of State significant development: section 4.36</b>	Chapter 2 of the Planning Systems SEPP identifies development or infrastructure types that are of state or critical significance. Under Schedule 1, Section 15 State Significant Development includes development that has a capital investment value of more than \$50 million for the purpose of the erection of a building, or alterations or additions to an existing school. The proposed development constitutes SSD as it comprises new buildings and alterations and additions to the existing Murwillumbah High School with a CIV greater than \$50 million.

## 2.4 State Environmental Planning Policy (Transport and Infrastructure) 2021

### Chapter 2 - Infrastructure

Chapter 2 Infrastructure of the State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP) aims to facilitate the effective delivery of infrastructure across the State by improving regulatory certainty and efficiency, identifying matters to be considered in the assessment of development adjacent to types of infrastructure development, and providing for consultation with relevant public authorities about certain development during the assessment process.

Educational establishments are no longer covered under the traffic generating development provisions of Chapter 2 Infrastructure as they are considered under Chapter 3 for Educational Establishments of the Transport and Infrastructure SEPP.

### Chapter 3 - Educational Establishments and Child Care Facilities

Chapter 3 of the Transport and Infrastructure SEPP aims to simplify and standardise the approval process for childcare centres, schools, TAFEs and universities while minimising impacts on surrounding areas and improving the quality of the facilities. Chapter 3 includes planning rules for where these developments can be built, which development standards can apply and construction requirements. The application has been assessed against the relevant provisions of Chapter 3.

An assessment of the proposed development against the relevant sections of the SEPP is provided in **Table 4**.

**Table 4 Relevant clauses of Chapter 3 Educational Establishments and Child Care Facilities**

<b>Section</b>	<b>Response</b>
<b>3.36 Schools – development permitted with consent</b>	<p>Section 3.36(1) permits development for the purpose of a school may be carried out by any person with development consent on land in a prescribed zone. Therefore, the development is permissible by virtue of this provision.</p> <p>Section 3.36(5) enables a school to be used, with development consent, for the physical social, cultural, or intellectual development or welfare of the community. The proposal includes community health facilities, which is consistent with this clause and is permitted with consent.</p> <p>Section 3.36(6)(a) requires that the design quality of the development should be evaluated in accordance with the design quality principles set out in Schedule 4. An assessment of the development against the design principles is provided further below in this table.</p> <p>Section 3.36(9) of the Transport and Infrastructure SEPP provides that “a provision of a development control plan that specifies a requirement, standard or control in relation to development of a kind referred to in subclause (1), (2), (3) or (5) is of no effect, regardless of when the development control plan was made”. Notwithstanding, a review of the Tweed DCP 2014 is provided further within this table.</p>
<b>3.43 State significant development for the purpose of schools – application of development standards in environmental planning instruments</b>	<p>Section 3.43 of Chapter 3 states that development consent may be granted for development for the purpose of a school that is SSD even though the development would contravene a development standard imposed by this or any other environmental planning instrument under which the consent is granted.</p> <p>A 9m building height limit applies to the land under Tweed Local Environmental Plan 2014 (LEP). All the proposed buildings will exceed this height limit. Notwithstanding, it is</p>

	facilitated under this clause. Refer to response to LEP 2014 below.
<b>3.58 – Traffic generating development</b>	Section 3.58 of Chapter 3 of the SEPP requires traffic generating development that involves addition of 50 or more students is to be referred to the Road and Maritime Services. (TfNSW). Consultation has been undertaken with TfNSW in preparing the EIS.
<b>Schedule 8 Schools – design quality principles</b>	
<b>Principle 1 – Context, built form and landscape</b>	<p>For the reasons discussed within this report and the supporting Architectural Design Statement at <b>Appendix H</b>, the proposed development is considered suitable with regard to its context, built form and landscaping. The siting of the proposed building is the result of a detailed master planning process, which will provide a new and improved presentation to the school, creating a new identity and visual prominence of the Murwillumbah Education Campus (MEC) from the streetscape.</p> <p>The proposed built form accommodates learning spaces to support the projected school population whilst ensuring sufficient landscaping, areas of open space and play space are retained across the school to support the proposed increase in student numbers, both because of the amalgamation of existing schools and more broadly within the catchment into the future.</p>
<b>Principle 2 – Sustainable, efficient and durable</b>	The proposed works will implement a range of sustainability measures, including more efficient building plant and services, a focus on natural ventilation and lighting where possible (which will be supplemented by solar panels), as well as the harvesting of rainwater and other water sensitive urban design measures incorporated across the school. Refer to a detailed overview of these initiatives at Section 6.8 of this report.
<b>Principle 3 – Accessible and inclusive</b>	As detailed within this report, the proposed development will significantly improve the presentation of the school to Nullum Street and resolve existing access and legibility issues within the surrounding street network. Further, the proposed development is capable of complying with relevant provisions for accessibility as outlined in the Access Report included at <b>Appendix AH</b> .
<b>Principle 4 – Health and safety</b>	<p>The proposed development has a key focus on health and safety of students, through the provision extensive areas of open space, which will provide additional areas for recreation whilst improving connections to and throughout the school.</p> <p>The Architectural Design Statement (<b>Appendix H</b>) demonstrates how Crime Prevention Through Environmental Design (CPTED) principles have been implemented throughout the school to help security and access for the school.</p>
<b>Principle 5 – Amenity</b>	The proposed development will deliver modern, state of the art facilities, spaces and equipment for use by students and staff. These areas will provide students with an enhanced learning environment and improved amenity for all users at the site.
<b>Principle 6 – Whole of life, flexible and adaptive</b>	Throughout the design process, design workshops have been undertaken with the executive teaching teams of each school which is proposed to be relocated within the MEC. This workshop presented the need for flexible learning environments and dedicated flexible spaces which have been

	<p>incorporated into the design of the proposed development. In addition, the form and materials of the proposed new building have been designed to ensure flexibility, durability and longevity.</p>
<b>Principle 7- Aesthetics</b>	<p>Streetscape facades and massing have been carefully considered to respond to the existing local context. Further to durability matters above, the proposal will have high quality external finishes, which will be aesthetically pleasing by achieving a built form that has good proportion and a balanced composition. The State Design Review Panel (SDRP) has been consulted on five separate occasions and have provided feedback on several architectural design matters. Their feedback in relation to the façade articulation, materiality and building features have been considered to achieve a high-quality design both functionally and aesthetically.</p> <p>Refer also to the seven (7) design principles within the Architectural Design Report at <b>Appendix H</b>.</p> <p>With regards to Section 3.43, Chapter 3 of the Transport and Infrastructure SEPP for the application of development standards, refer to a detailed assessment of the TLEP 2014 (including applicable development standards) further within this report.</p> <p>In addition to the above, Section 3.58 of the Transport and Infrastructure SEPP also stipulates that development for the purposes of an 'educational establishment' with 50 or more students and with access to any road will be referred to TfNSW as 'traffic generating development'. TfNSW has been consulted during the SEARs stage and in the preparation of this EIS, which will continue during assessment of this application.</p>

## 2.5 State Environmental Planning Policy (Resilience and Hazards) 2021

State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP) includes Chapter 3 Hazardous and Offensive Development and Chapter 4 Remediation of Land.

### Chapter 3 - Hazardous and Offensive Development

The Preliminary Dangerous Goods Screening Report completed by JHA Services at **Appendix AD** confirmed the school currently stores hazardous chemicals for use in science and primary industry classes. Further investigations in the form of a Preliminary Hazard Analysis (PHA) was deemed not required by JHA Services.

### Chapter 4 - Remediation

Section 4.6 of Chapter 4 of the Resilience and Hazards SEPP requires the consent authority to consider whether the subject land of any development application is contaminated and if found to be 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.

The Stage 2 Detailed Site Investigation (DSI) conducted by Douglas Partners at **Appendix S** identifies that there was no significant contamination on the site, which does not require further investigation, remediation and/or validation to render the site suitable for the proposed use.

On this basis, Douglas Partners consider the site is suitable for the proposed development in accordance with the provisions of the SEPP (Resilience and Hazards).

## 2.6 State Environmental Planning Policy (Industry and Employment) 2021

### Chapter 3 - Advertising and Signage

Chapter 3 of State Environmental Planning Policy (Industry and Employment) 2021 (Industry and Employment SEPP) applies to all signage that under an Environmental Planning Instrument (EPI) can be displayed with or without development consent and is visible from any public place or public reserve.

Two (2) community information signs are proposed, including one (1) located to Riverview Street and one (1) located at the corner of Nullum Street and High School Lane. The signage will be notice boards with digital and LED lettering for notice of school/community events. This will be operated (i.e., lettering will be illuminated) outside of school hours.

The objectives for Advertising and Signage are provided in Chapter 3 of the Industry and Employment SEPP while the assessment criteria are listed in Schedule 5. The consistency of the signage against the objectives and assessment criteria are considered below.

**Table 5 Relevant clauses of the Industry and Employment SEPP**

<b>Aims, objectives etc.</b>	The community notification signage is compatible with the desired amenity and visual character of an area. Signs will have high quality design and finish that integrates with the building façade.  Signs will provide communication of information that is relevant to the school community in suitable locations.
<b>Schedule 5</b>	<b>Assessment Criteria</b>
Character of the Area	The signage reflects the character of the school and is similar in nature to identification and community information signage used at other schools for community notification purposes.
Special Areas	The proposed development does not adjoin any special areas.
Views & Vistas	The signage will not affect any significant views or vistas.
Streetscape, Setting or Landscape	Proposed signs are intended to display important information for the school community only. Proposed signs are to be lightweight structures, positioned so as not to cause visual impacts or loss of amenity to nearby sensitive receivers, nor distraction for motorists or pedestrians. The scale of proposed community notification signs is not considered to detract from the presentation of the school within the streetscape.
Site & Building	Refer comments above.
Associated devices and logos with advertisements and advertising structures	Details of any safety devices and logos will be developed at a later stage.
Illumination	Illumination details will be developed at a later stage.  Any illumination will be designed to avoid unacceptable glare or light spill.
Safety	The proposed signage zones will not reduce road, pedestrian or cyclist safety.

The above analysis provides that the proposed community information signage is consistent with the objectives and assessment criteria of the Industry and Employment SEPP.

Note: consent is not sought for signage for the purposes of building identification.

## 2.7 State Environmental Planning Policy (Biodiversity and Conservation) 2021

### Chapter 3 - Koala Habitat and Protection 2020

Chapter 3 Koala Habitat Protection 2020 of State Environmental Planning Policy (Biodiversity and Conservation) 2021 (Biodiversity and Conservation SEPP) aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline. The BDAR prepared by EMM (**Appendix O**) notes the site does not support any known populations of Koala and the project activities are not expected to reduce the area of occupancy or breeding cycles of koalas or reduce habitat critical to the survival of koalas.

It was assessed that the habitat on the subject land does not meet the definition of habitat critical to the survival of the species, based on an assessment against the Biodiversity Conservation Act 2016 (BC Act) nor the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) referral guidelines. In brief, while the site does contain habitat that is suitable for koalas due to the reasons above the development will not result in a significant impact to koalas. Further the proposed development has been specifically sited within an area of the site that is largely developed / cleared to minimise impacts to flora or fauna.

## 2.8 Tweed Local Environmental Plan 2014

The development is consistent with the relevant provisions of TLEP 2014. Consideration of the relevant clauses of the TLEP 2014 is provided in **Table 6** below.

**Table 6 Tweed Local Environmental Plan 2014**

Provision	Consistency	Response
<p><b>2.3 Land use zoning</b></p> <p><i>Objectives</i></p> <p><i>To provide for the housing needs of the community within a low-density residential environment.</i></p> <p><i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i></p>	Yes	<p>The site is zoned R2 - Low Density Residential under the TLEP 2014.</p> <p><u>Educational Establishment</u></p> <p>The development of the campus will provide high quality of educational facilities to serve the Murwillumbah community.</p> <p>Development for the purposes of an Educational Establishment is permitted in the R2 zone under the TLEP 2014.</p> <p>Pursuant to Section 3.36(1) of the Transport and Infrastructure SEPP, development for the purposes of an Educational Establishment is also permitted within the R2 zone.</p> <p><u>Community Health Facilities</u></p> <p>The proposed health facilities are for the exclusive use of the school community and are considered an ancillary use, i.e., subservient to the dominant purpose of the development.</p> <p>Were it not for the presence of the school on the site there would be no purpose for school community health facilities, and thus it is not considered an independent component of the development.</p> <p>As noted in Section 3.6 of the EIS, the proposed school community health facilities comprise a series of flexible spaces to be used for meetings, workshops, classes etc. to support the general health and wellbeing of members of the campus community.</p> <p><u>Department of Education (DoE) Offices</u></p>

---

The DoE office is characterised as a 'public administration building' under the TLEP 2014:

*"Public administration building means a building used as offices or for administrative or other like purposes by the Crown, a statutory body, a council, or an organisation established for public purposes, and includes a courthouse or a police station."*

Public administration buildings are prohibited in the R2 Low Density Residential zone under TLEP 2014. Notwithstanding this prohibition, it is considered that the DoE office use of Building A within the campus is acceptable given:

- It supports the function of the school and will also contribute toward providing improved educational opportunities and facilities across the region.
- It does not increase the scale of the proposal as it is located within the existing heritage listed building on the site. The proposed office will support the ongoing economic use of the building, which due to its heritage listing is limited in the range of uses it can support.
- It constitutes a minor component (589m<sup>2</sup>) of the proposed development overall (17,658.4m<sup>2</sup>), accounting for approximately 3% of the floor space of the proposal.
- It will not create any adverse impacts on the operation of the school or surrounds.

Section 4.38(3) of the EP&A Act allows the Minister to grant consent to SSD that is partly prohibited and therefore, the Minister would be able to approve the proposal.

Section 4.38(3) states:

*"1) The Minister is to determine a development application in respect of State significant development by:*

*a) granting consent to the application with such modifications of the proposed development or on such conditions as the Minister may determine, or*

*b) refusing consent to the application.*

*2) Development consent may not be granted if the development is wholly prohibited by an environmental planning instrument.*

*3) Development consent may be granted despite the development being partly prohibited by an environmental planning instrument."*

Summary

---

		<p>Having regard to the matters outlined above, the site is considered suitable for the proposed development.</p> <p>The proposed development for the purposes of a school (educational establishment) is therefore permitted with development consent.</p> <p>The proposal is consistent with the zone objectives to enable other land uses that provide facilities or services to meet the day to day needs of residents, as it provides educational infrastructure needs to support the residents of Murwillumbah.</p>
<p><b>4.3 Height of buildings</b></p> <p><i>Objectives</i></p> <p>(1) <i>The objectives of this clause are as follows—</i></p> <p>a) <i>to establish the maximum height for which a building can be designed,</i></p> <p>b) <i>to ensure that building height relates to the land's capability to provide and maintain an appropriate urban character and level of amenity,</i></p> <p>c) <i>to ensure that taller development is located in more structured urbanised areas that are serviced by urban support facilities,</i></p> <p>d) <i>to encourage greater population density in less car-dependant urban areas,</i></p> <p>e) <i>to enable a transition in building heights between urban areas comprised of different characteristics,</i></p> <p>f) <i>to limit the impact of the height of a building on the existing natural and built environment,</i></p> <p>g) <i>to prevent gross overshadowing impacts on the natural and built environment.</i></p>	No	<p>The site is subject to a maximum height limit of 9.0m.</p> <p>The proposed development will achieve a maximum height of 16.03m and all of the buildings will exceed the buildings height development standard.</p> <p>Pursuant to Section 3.43 of the Transport and Infrastructure SEPP, development consent may be granted for development for a school that is SSD even though the development would contravene a development standard imposed by TLEP 2014. Notwithstanding, the proposed height of the development is not considered to result in any unreasonable amenity or view impacts to surrounding properties. The height of new buildings and additions are also set lower than heritage Building A so that it remains the dominant feature on the site.</p> <p>It is worth noting also that Schedule 6 of the Transport and Infrastructure SEPP allows for new school buildings up to 4 storeys or not more than 22m from ground level (mean) in height under the Complying Development pathway on eligible sites.</p>
<p><b>4.4. Floor space ratio</b></p> <p>(1) <i>The objectives of this clause are as follows—</i></p> <p>a) <i>to define the allowable development density of a site and for particular classes of development,</i></p> <p>b) <i>to enable an alignment of building scale with the size of a site,</i></p> <p>c) <i>to provide flexibility for high quality and innovative building design,</i></p> <p>d) <i>to limit the impact of new development on the existing and planned natural and built environment,</i></p>	Yes	<p>The site is subject to a maximum floor space ratio (FSR) of 0.8:1.</p> <p>The proposed development is to have a maximum FSR of 0.15:1.</p>

<p>e) <i>to encourage increased building height and site amalgamation at key locations in Tweed.</i></p>		
<p><b>5.10 Heritage conservation</b>  <i>The objectives of this clause are as follows—</i></p> <p>a) <i>to conserve the environmental heritage of Tweed,</i></p> <p>b) <i>to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,</i></p> <p>c) <i>to conserve archaeological sites,</i></p> <p>d) <i>to conserve Aboriginal objects and Aboriginal places of heritage significance.</i></p>	<p>Yes</p>	<p>Part of the site (Lot 6 DP 820602) contains a locally listed heritage building, being the Murwillumbah High School (Block A) (Item 49, Schedule 5, TLEP 2014).</p> <p>This building is proposed to be retained as part of this application. The proposed development will conserve the heritage significance of this building and will not result in any adverse heritage impacts. Refer to the Heritage Impact Statement at <b>Appendix L.</b></p>
<p><b>5.12 Infrastructure development and use of existing buildings of the Crown</b></p> <p>(1) <i>This Plan does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development, by or on behalf of a public authority, that is permitted to be carried out with or without development consent, or that is exempt development, under State Environmental Planning Policy (Infrastructure) 2007.</i></p> <p>(2) <i>This Plan does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.</i></p>	<p>Yes</p>	<p>The proposed development may be carried out by the proponent.</p>
<p><b>5.21 Flood Planning</b>  <i>The objectives of this clause are as follows—</i></p> <p>a) <i>to minimise the flood risk to life and property associated with the use of land,</i></p> <p>b) <i>to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,</i></p> <p>c) <i>to avoid adverse or cumulative impacts on flood behaviour and the environment,</i></p> <p>d) <i>to enable the safe occupation and efficient evacuation of people in the event of a flood.</i></p>	<p>Yes</p>	<p>All lots are identified as flood prone. Matters contained within Clause 5.21 of TLEP 2014 have been considered in the design of the development and are further discussed at Section 6 of this report.</p>
<p><b>7.1 Acid Sulfate Soils</b>  <i>The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate</i></p>	<p>Yes</p>	<p>The site is identified as containing part Class 3, part Class 4 and part Class 5 Acid Sulfate Soils (ASS). Accordingly, an ASS Management Plan has been prepared as part of the</p>

soils and cause environmental damage.		DSI at <b>Appendix S</b> . Refer further discussion at Section 6 of this report.
<p><b>7.2 Earthworks</b></p> <p><i>The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.</i></p>	Yes	The proposed development includes site grading and earthworks to facilitate the construction of school buildings. Matters within Clause 7.2 have been considered in the design of the development and are further discussed at Section 6 of this report.
<p><b>7.6 Stormwater management</b></p> <p><i>The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters.</i></p>	Yes	Matters within Clause 7.6 have been considered in the design of the development and are further discussed at Section 6 of this report and the stormwater report at <b>Appendix U</b> .
<p><b>7.7 Drinking water catchment</b></p> <p><i>The objective of this clause is to protect drinking water catchments by minimising the adverse impacts of development on the quality and quantity of water entering drinking water storages.</i></p>	N/A	The site is not identified as being within a drinking water catchment pursuant to Clause 7.7 of TLEP 2014.
<p><b>7.8A Airspace Operations – Murwillumbah Airport</b></p> <p>1) <i>The objectives of this clause are as follows—</i></p> <p>(a) <i>to provide for the effective and ongoing operation of the Murwillumbah Airfield by ensuring that such operation is not compromised by proposed development that penetrates the obstacle limitation surface for that airfield,</i></p> <p>(b) <i>to protect the community from undue risk from that operation.</i></p> <p>(2) <i>This clause applies in relation to a development application if—</i></p> <p>(a) <i>the proposed development is on land shown on the Obstacle Limitation Surface Map for which an obstacle limitation surface is identified, and</i></p> <p>(b) <i>the consent authority is satisfied the proposed development will penetrate the obstacle limitation surface for the land.</i></p> <p>(3) <i>Before deciding whether to grant development consent for the application, the consent authority must—</i></p>	Yes	The site is located within proximity to Bob Whittle Murwillumbah Airfield. In accordance with Item 22 of the SEARs, an Aviation Impact Assessment has been prepared by Aviation Projects at <b>Appendix AE</b> . This aviation assessment has considered the potential impact to the nearby Bob Whittle Murwillumbah Airfield and provides that the proposed development will not penetrate any obstacle limitation surfaces (OLS) and will not impact flight or helicopter operations to or from this airfield nor any others within the vicinity of the site.

---

(a) consult the operator of the Murwillumbah Airfield about the application, and

(b) give the operator of the Murwillumbah Airfield a period of not less than 28 days within which to consider and comment on the application.

(4) The consent authority must not grant development consent for development referred to in subclause (2) if—

(a) the operator of the Murwillumbah Airfield—

(i) is satisfied the development will penetrate the obstacle limitation surface as shown on the Obstacle Limitation Surface Map, and

(ii) objects to development consent being granted, or

(b) the consent authority is satisfied—

(i) the proposed development will adversely impact on the operation of the airfield, or

(ii) the proposed development is likely to result in undue risk to the local community.

---

**7.10 Essential Services**

*Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—*

(a) the supply of water,

(b) the supply of electricity,

(c) the disposal and management of sewage,

(d) stormwater drainage or on-site conservation,

(e) suitable vehicular access.

---

Yes

Clause 7.10 requires services, which are essential to the development, to be available for the development. Services include, supply of water, supply of electricity, disposal and management of sewage, stormwater drainage or on-site conservation and suitable vehicular access.

An Infrastructure Management Plan has been prepared by JHA Services and is attached at **Appendix AE**. The Plan focuses on water, sewer, gas, electricity, telecommunications, fire protection, and mechanical services for the site.

The report outlines upgrades and augmentation strategies required to existing services in order serve the proposed development.

## 2.9 Tweed Development Control Plan 2008

The Tweed DCP 2008 (TDCP 2008) supports TLEP 2014 by providing detailed guidelines and controls that apply to a particular type of development and specific areas/precincts.

Section 2.10 of the Planning Systems SEPP provides that DCPs do not apply to SSD. Notwithstanding, as required by Item 1 of the SEARs, an assessment of the proposed development against the requirements of the TDCP 2008 is provided below.

The TDCP 2008 does not provide any guidelines relevant to the proposed development, being the construction of an Educational Establishment, as there is no guidance on schools as a development typology nor area specific controls that affect the location of the proposal.

However, the TDCP 2008 does provide several provisions within Section A2 relating to parking provision as well as within Section A3 relating to flood prone land. Refer to a discussion relating to flood and traffic matters within Section 6 of this report, along with the Traffic Impact Assessment at **Appendix X** and Flood Report at **Appendix T**.

There are no other provisions of the TDCP 2008 relevant to the proposed development.

## 2.10 Development Contributions

Sections 7.11 and 7.12 of the EP&A Act allow Councils to require development contributions for the infrastructure that is needed to support new development. Council has a number of contribution plans in place, with the proposed development applicable to the following plans prepared in accordance with 7.11 of the EP&A Act:

- CP11: Tweed Shire Library Facilities;
- CP15: Developer Contributions for Community Facilities; and
- CP22: Cycleways.

It is noted that the above plans rely on the levying of development contributions, only where there is an increase in resident population or additional dwellings resulting from the proposed development. Being an educational establishment, the proposed development does not include any dwellings and will not result in any increase in resident population.

Section 7.11 of the EP&A Act provides that the requirement for Section 7.11 development contributions “*may be imposed only to require a reasonable dedication or contribution for the provision, extension or augmentation of the public amenities and public services concerned*”.

DoE does not agree to a condition of consent requiring it to pay developer contributions under section 7.11 of EP&A Act. Planning Circular D6 represents the consistently held view that DoE, as a Crown authority, provides critical community infrastructure and that to levy any developer contribution on provision of public education facilities increases the cost of such infrastructure for all taxpayers in the State.

The payment of contributions to upgrade infrastructure elsewhere in the LGA would reduce funding available for the proposed development.