

4.1	8 Wyatt Avenue, Belrose – Increase in Student Numbers at John Colet School
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DEVELOPMENT ASSESSMENT REPORT

Assessment Officer:	Michael Edwards
Address / Property Description:	Lot 1, DP 601101, No.8 Wyatt Avenue, Belrose
Proposed Development:	Increase in student numbers at John Colet School.

Development Application No:	DA2010/1170
Application Lodged:	26/07/2010
Plans Reference:	CH-DA100, revision A, dated 26/7/2010; Signage Types, dated 26/7/2010, prepared by Templum Design Architects
Amended Plans:	There are no amendments to the plans
Applicant:	John Colet Schools Inc
Owner:	John Colet Schools Inc

Locality:	C8 Belrose North
Category:	Category 3 (Further Education)
Draft WLEP 2009 Permissible or Prohibited Land use:	Prohibited
Variations to Controls (Cl.20/Cl.18(3)):	None
Referred to ADP:	NO
Referred to WDAP:	YES (Category 3 development)
Land and Environment Court Action:	NO

SUMMARY

Submissions:	YES – 34 submissions (5 generated from 2 properties)
Submission Issues:	Kerb & guttering, Increase in carparking, traffic, carparking within subject site, insufficient accommodation of open spaces, Inconsistency with WLEP 2000 & Draft WLEP 2009, Built Form Controls, Unlawful building works, Bushfire safety, Signage, Impact on bushland, Impact on neighbouring amenity
Assessment Issues:	Inconsistency with General Principles of Development Control; Inconsistency with the Desired Future Character
Recommendation:	Refusal
Attachments:	None

LOCALITY PLAN (not to scale)



Figure 1: The subject site denoted by cross hatching.

Subject Site: Lot 1, DP 601101 and Lot 1, DP 874509, No.8 Wyatt Avenue, Belrose.

Public Exhibition: The subject application has been publicly exhibited in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2000 and Warringah Development Control Plan.

As a result, the application was notified to 264 adjoining land owners and occupiers (notice was sent to last known address) for a period of 21 calendar days commencing on 13/8/2010 and being finalised on 7/9/2010, furthermore, the application has been advertised within the Manly Daily on 10/8/2010 and a notice was placed upon the site.

SITE DESCRIPTION

Description

The subject site has a registered title of Lot 1 in DP 601101 and Lot 101 in DP 874509, commonly and collectively known as No.8 Wyatt Avenue, Belrose. The site is located on the northern side of Wyatt Avenue and has an area of 11,790sqm and is irregular in shape.

The subject site is located on the edge of a residential precinct generally comprising detached style housing. Wyatt Reserve is located directly opposite the site which provides public open playing fields.

Topography

The site is located on partially cleared land with the majority of the cleared land being towards the front property boundary and increasing in the density of vegetation towards the rear boundary where the site then adjoins open bushland which has been identified as part of the 'Duffys Forest Ecological Community' by the NSW National Parks and Wildlife Service (NPWS).

Existing Works

The subject site contains 7 free-standing buildings with a number of smaller outbuildings and staff carparking which collectively comprise the 'John Colet School'.

Site Burdens / Constraints

The subject site is located within Bushfire Prone Land and has been identified as containing the threatened species *Grevillea caleyi* plant.

SITE HISTORY

On 15/3/1995, Council approved Development Application No.95/135 for the construction of an educational establishment. Under this consent, Condition No.5 states:

'Student numbers shall be restricted to 55'.

On 26/6/1995, Council approved Modification Application No.6000/5411 to modify Development Consent No.95/135 relating to an increase in the student numbers.

Accordingly, Condition No.5 was modified to read as follows:

'Student numbers shall be restricted to 150'.

It is also noted that this modification consent states:

'You are also advised that it is considered that a 'Porte Cochere' will be required for any increase in pupil numbers beyond 150.'

On 17/2/1999, Council approved Development Application No.DA1999/1206 for the erection of a deck and pergola.

On 25/11/1999, Council approved Development Application No.DA1999/2414 for the erection of a demountable classroom.

On 28/2/2003, Council approved Development Application No.DA2002/1832 for the alterations and additions to the existing administration building to create a new hall.

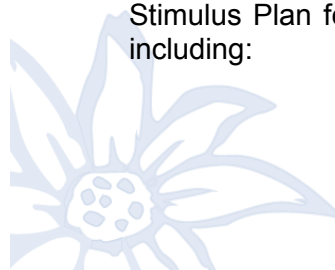
On 30/4/2004, Council approved Development Application No.DA2000/3893 for landfill of an area to create a playground area.

On 30/1/2008, Council approved Development Application No.DA2007/1067 for the installation of rainwater tanks.

On 13/5/2008, Council approved Modification Application No.MOD2008/0073 to modify conditions (Condition No.19 of Consent No.DA2007/1067) relating to bushfire safety in association with the installation of rainwater tanks.

On 19/6/2009, Council approved Development Application No.DA2009/0528 for the alterations and additions to an existing school building 'Top House'.

On 24/9/2009, consent was granted under the NSW Government's Nation Building Economic Stimulus Plan for the construction of a new building comprising 4 classrooms and a toilet block, including:



- Removal of 2 existing demountable classrooms;
- Removal of 3 trees;
- Landscape works; and
- Associated site works.

On 7/7/2010, a Pre-lodgement meeting was held at Council's offices in relation to a development proposal to increase the student population number from 125 to 300.

At this meeting, Council advised that the increase in student population numbers should be progressively proposed on an 'as needed' basis.

PROPOSED DEVELOPMENT

This application proposes the increase in enrolled student numbers from the present capacity of 150 (approved under DA95/135) to 225 (an increase of 75 students) together with 3 additional staff to balance the additional student population.

The application also proposes the erection of signage including the following:

- Addition of the school crest (sign) to the façade of the existing building fronting Wyatt Avenue;
- Erection of a directional sign comprising a map of the school grounds, adjacent to the pedestrian entrance from Wyatt Avenue;
- Erection of two identification signs and a directional sign.

AMENDMENTS TO THE SUBJECT APPLICATION

There are no amendments to the application.

STATUTORY CONTROLS

- a) Environmental Planning and Assessment Act 1979;
- b) Environmental Planning and Assessment Regulations 2000;
- c) State Environmental Planning Policy – Infrastructure;
- d) State Environmental Planning Policy No. 55 – Remediation of Land;
- e) Warringah Local Environmental Plan 2000;
- f) Warringah Development Control Plan;
- g) Section 94A Developer Contributions Plan; and
- h) Draft Warringah Local Environmental Plan 2009.

PUBLIC EXHIBITION

The subject application has been publicly exhibited in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2000 and Warringah Development Control Plan.

As a result, the application was notified to 264 adjoining land owners and occupiers (notice was sent to last known address) for a period of 21 calendar days commencing on 13/8/2010 and being finalised on 7/9/2010, furthermore, the application has been advertised within the Manly Daily on 10/8/2010 and a notice was placed upon the site.



A total of 34 submissions were received in response to the application (5 were generated from the same property). Submissions were received from the following:

Submission Received:	Address:
Arrand, Craig	No.1 Skene Place, Belrose
Armstrong, Mary	Address withheld
Barnett, Richard and Beverley	No.27 Contentin Road, Belrose
Beck, Donald	No.92 Pringle Avenue, Belrose
Belrose Rural Community Association	PO Box 401, Frenchs Forest
Bloom, Philip*	No.24 Wyatt Avenue, Belrose
Dawson, Leissa	No.8 Stratford Drive, Belrose
Essington-Wilson, Michelle*	No.19 Carrington Parade, Freshwater
Fawkner, Astrid*	No. withheld, Greystroke Street, Wheeler Heights
Fitzgerald, Lara*	No.33 Allworth Drive, Belrose
Galloway, Colm	No.26 Wyatt Avenue, Belrose
Holman, John* (x2)	No.16 Wyatt Avenue, Belrose
Judge, David	No.16 Stratford Drive, Belrose
Keller, Carrie	Address withheld
Khadem, Atousa*	No.31 Ramsay Street, Collaroy
Mane, Gilbert*	No.18 Dindima Place, Belrose
McElroy, Clare	No.5 Wyatt Avenue, Belrose
McLafferty, Stephanie	No.9 Wyatt Avenue, Belrose
Moore, Donna	No.125 Melwood Avenue, Belrose
Nesbitt, Emma*	No.119 Willoughby Road, Crows Nest
Patton, Ron and Cynthia	No.19 Wyatt Avenue, Belrose
Pasch, B	No.6 Fiona Street, Belrose
Pietschner, Simone*	No.47 Calool Crescent, Belrose
Small, Ken	No.19 Stratford Drive, Belrose
Stankovic, Glenda* (x3)	No.36 Charleroi Road, Belrose
Stuart, Kellie*	No.41 Allenby Park Parade, Allambie Heights
Stuart, Beverley	No.4 Strafford Drive, Belrose
Symons Goodyer (per Cox, M)	No.10 Wyatt Avenue, Belrose
Tremolada, Michelle	No.3 Lockhart Place, Belrose
Wrightson, Jajte	No.18 Wyatt Avenue, Belrose
Yeomans, Barry and Beverley	No.15 Wyatt Avenue, Belrose

* Denotes submissions in support of the application

A total of 19 submissions oppose the proposed development with 12 submissions in support of the application. It is noted that 11 of the 12 submissions in support of the application are generated from school patrons.

Discussion of the relevant issues raised in the submissions received is provided as follows:

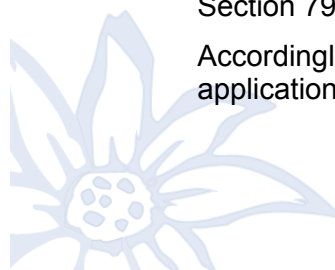
i) Kerb and guttering

The objections contend that:

- Adequate kerb and guttering should be installed along Wyatt Avenue to facilitate the appropriate management of stormwater run-off and control nutrient run-off into the drainage system.

Response: Kerb and guttering along Wyatt Avenue is not proposed as part of this Development Application and this issue is not a relevant matter for consideration under Section 79(c) of the Environmental Planning and Assessment Act 1979.

Accordingly, this submission issue does not warrant amendments or refusal of the application.



ii) Increase in carparking demand

The objections contend that:

- The increase in additional students will generate additional frequent demand for carparking within the area. Concern is also raised in that carparking is already at a premium on Saturdays when soccer is played at Wyatt Avenue;
- There will be increased reliance on the carparking spaces associated with Wyatt Reserve whereby restricting the availability of carparking for legitimate users of Wyatt Reserve and the adjoining tennis courts;
- The demand of carparking will be significantly higher during times of school functions, working-bees, out of hours activities and sports carnivals.

Response: A detailed assessment of the suitability of the carparking provision is provided under Clause 74 *Provision of Carparking* of the General Principles of Development Control which demonstrates that the proposed provision of carparking is insufficient and inappropriate to suit the additional carparking demand generated by the increase in student and staff numbers.

Accordingly, this submission issue warrants the refusal of the application.

iii) Change in traffic conditions

The objections contend that:

- The proposed increase in student numbers will generate a substantial increase in traffic volume within Neridah, Fiona and Charlerio Streets and that the increase in traffic will also increase congestion at the intersection of Wyatt Avenue and Forest Way;
- The increased traffic volume will significantly increase traffic and pedestrian safety concerns from the volume of the traffic flow and parents incorrectly parking for the dropping off and picking up of children;
- The additional bus movements will increase traffic congestion within the street;
- The Traffic Report prepared by McClaren Traffic Engineers proposes the changes to the phasing of the traffic lights at the intersection of Wyatt Avenue and Forest Way which demonstrates that there will be considerable impact on the amenity of the neighbourhood;
- The majority of the students of the school do not reside in the area whereby requiring individual vehicle movements;
- The school is suggesting to parents to undertake 'U-turns' which create significant pedestrian and traffic safety concerns;
- The proposed increase in traffic volume will exceed the RTA's desirable maximum environmental goal of 200 vehicles per hour in both the AM and PM peak hours along Wyatt Avenue. The Traffic Report prepared by McClaren Traffic Engineering indicates that an expected absolute maximum of 300 vehicles per hour;
- Traffic calming measures should be implemented within Wyatt Avenue to address the issue of vehicle speed however this will not address the volume of vehicles.

Response: A detailed assessment of the additional traffic volume and change in traffic conditions is provided under Clause 72 *Traffic Access and Safety* of the General Principles of Development Control which demonstrates that the additional increase in traffic volume is unsatisfactory.

Accordingly, this submission issue does not warrant amendments or refusal of the application.



iv) Provision of carparking within the subject site

The objections contend that:

- The subject site currently provides for 18 approved carparking spaces and the proposed additional spaces to cater for a total of 27 spaces, are located within mature bushland. The subject site is identified as an ecologically sensitive site containing threatened species and the provision of carparking dispersed amongst the bushland is inappropriate.

Response: A detailed assessment of the suitability of the carparking provision is provided under Clause 74 *Provision of Carparking* of the General Principles of Development Control which demonstrates that the proposed provision of carparking is insufficient and inappropriate to suit the additional carparking demand generated by the increase in student and staff numbers.

Accordingly, this submission issue warrants the refusal of the application.

v) Size of the subject site and insufficient accommodation of open spaces

The objections contend that:

- There is insufficient accommodation of functional areas within the subject site to cater for use as open space;
- The insufficient accommodation of open space within the subject site intensifies the reliance and use of Wyatt Reserve to cater for the functional outdoor activities of the school which is an unacceptable solution to be relying on public open space;
- The inability to accommodate for the daily functions of the school within the subject site demonstrates that the school cannot even accommodate for the existing school population and demonstrates an overdevelopment of the site;
- The reliance on Wyatt Reserve to serve as functional open space will restrict the use and availability of the public reserve to legitimate users on most school days;
- The school should consider relocating to a larger premises;
- The size of the subject site is currently too small to cater for the current school student population;
- The insufficient areas of open space will place pressure on the school's limited areas of open space and will increase the potential for intrusion into the protected vegetation area.

Response: A detailed assessment is provided under Section 79(c)(1)(c) of the Environmental Planning and Assessment Act, Clause 52 *Development near Parks, Bushland Reserves and other Public Open Spaces* and Clause 70 *Site Facilities* of the General Principles of Development Control section of this report which demonstrates that the inability to accommodate for sufficient areas of functional open space within the site, intensifies the reliance on public open space to cater for the outdoor activities associated with the daily operations of the school, demonstrating that the proposal is an overdevelopment of the site.

Accordingly, this submission issue warrants the refusal of the application.

vi) Inconsistency with WLEP 2000 and Draft WLEP 2009

The objections contend that:

- The proposed development is currently identified as Category 3 development under Warringah Local Environmental Plan 2000 (WLEP 2000) and the 'interpretation' of WLEP 2000 in Draft WLEP 2009 identifies 'schools' as a prohibited land use within the land zoning.



- The inconsistency with the requirements of WLEP 2000 and Draft WLEP 2009 demonstrate that the proposed development is not suitable for the site and Council should not support development that will intensify the use of a prohibited development and land use;
- The development does not constitute 'low-intensity, low-impact' development.

Response: A detailed assessment against the relevant provisions of Draft WLEP 2009 is provided in this report which demonstrates that the proposed development is inconsistent with the aims and objectives of the land zoning.

Accordingly, this issue warrants the refusal of the application.

vii) Compliance with the Built Form Controls

The objections contend that:

- The C8 Belrose North locality requires 50% of the site to be preserved as natural bushland with the side setbacks of 10.0m being undeveloped.

Response: A detailed assessment of the proposed development's numerical compliance with the Built Form Controls is provided under the Built Form Controls section of this report.

viii) Unlawful building works

The objections contend that:

- The existing demountable building is an unlawful structure, requiring removal as part of a previous development consent. This issue should be resolved prior to determining this application.

Response: This matter has been referred to Council's Building Compliance division for investigation and consideration.

Accordingly, this issue does not warrant the refusal of the application.

ix) Bushfire safety

The objections contend that:

- The subject site is located within bushfire prone land and Wyatt Reserve is a 'No through road'. The increase in additional student numbers will intensify the safety concerns of residents and students should the area be evacuated in the event of a bushfire.

Response: The application was referred to the NSW Rural Fire Service as the site is located within bushfire prone land. Refer to the comments from the NSW RFS under the Referrals section of this report.

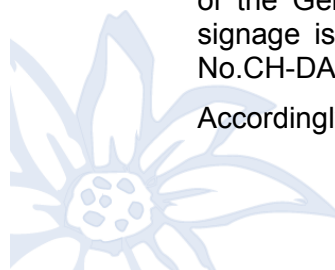
x) Signage

The objections contend that:

- The proposed signage is excessive for a residential area both in size and number and will be visually dominant and impact on the streetscape character.

Response: A detailed assessment of the proposed signage is provided under State Environmental Planning Policy 54 – Advertising and Signage together with Clause 53 Signs of the General Principles of Development Control which demonstrates that the proposed signage is generally satisfactory, with the exception of the sign marked No.1 on Drawing No.CH-DA 100.

Accordingly, this issue does not warrant amendments or refusal of the application.



xi) Impact on bushland

The objections contend that:

- The proposed carparking spaces will impact on the existing bushland vegetation which contains threatened species.

Response: Council's Natural Environment Unit have reviewed the Development Application. A summary of their comments is provided under the Referrals section of this report.

xii) Impact on neighbouring amenity

The objections contend that:

- The increase in student numbers will result in additional noise generation and additional rubbish being thrown over the fence into the backyard of the neighbouring property;
- The commencement of school activities at 5:30am results in an unreasonable acoustic impact on the neighbourhood.

Response: This issue can be addressed by an Operational Management Plan (OMP) for the school to minimise impacts on amenity from noise and control of littering.

It is also noted that Condition No.6 of Development Consent No.95/135 states:

'The hours of operation for formal teaching shall be restricted to between 8:00am and 4:00pm, Monday to Friday and evening group activities comprising a maximum of 60 students to be completed by 10:00pm Monday to Friday'.

Accordingly, this issue does not warrant amendments or refusal of the application and any activities undertaken outside of these hours is a matter for Council's Regulatory Compliance division.

MEDIATION

Has mediation been requested by the objectors? No

LAND AND ENVIRONMENT COURT ACTION

No appeal has been lodged with the Land and Environment Court.

REFERRALS

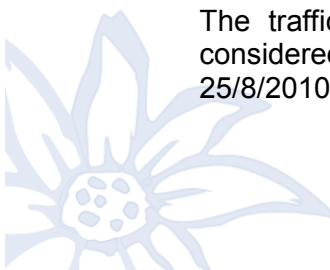
A summary of the relevant comments is provided as follows:

External Referrals

a) Roads and Traffic Authority

The application was referred to the Roads and Traffic Authority under Clause 104 and Schedule 3 of *State Environmental Planning Policy (Infrastructure) 2007*. (SEPP Infrastructure 2007).

The traffic impact associated with the increase in student numbers was subsequently considered by the Sydney Regional Development Advisory Committee (SRDAC) on 25/8/2010.



A summary of the response from the RTA is as follows:

- a) The RTA supports the proposal to upgrade the existing children's crossing, associated signage / delineation and provision of additional pedestrian facilities. It is noted however that the proposed works will need to be referred to the local traffic committee.
- b) The traffic report indicates that there are currently children walking on Wyatt Avenue between the school and Forest Way however there are currently no footpaths on either side of Wyatt Avenue. Considering the proposal is likely to increase pedestrian demand, a footpath should be considered on both sides of Wyatt Avenue between the school and Forest Way.
- c) All four legs of the traffic signal intersection at Forest Way / Wyatt Avenue / Morgan Road have signalised pedestrian crossings, thus the need for pedestrians has been catered for. Nevertheless, the RTA will review the walk times for the signalised intersection to determine if they are suitable for the site.
- d) The provision of car parking, loading area and drop off / pick up zone should be able to accommodate the demand of the school to Council's satisfaction. The operation of drop off / pick up zones should be monitored and traffic management measures provided if traffic or road safety issues arise. All measures will need to be referred to the local traffic committee.
- e) The carpark, loading area and drop off / pick up zone should be designed in accordance with AS2890.1 - 2004 and other relevant design guidelines and standards.
- f) A demolition and construction traffic management plan detailing construction, vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council for approval prior to the issue of a Construction Certificate.

The RTA raised no objection to the proposed increase in student numbers and the erection of signage. A condition of consent has been imposed in the draft conditions to ensure compliance with the requirements of the RTA.

Further, in accordance with Clause 104(4) of *SEPP Infrastructure 2007*, a copy of the Notice of Determination will be issued to the RTA should this application be recommended for approval.

b) Energy Australia

The application was referred to Energy Australia under Clause 45(2) of *State Environmental Planning Policy (Infrastructure) 2007*.

No objection was raised to the proposed increase in student numbers and the erection of signage, subject to conditions of consent.

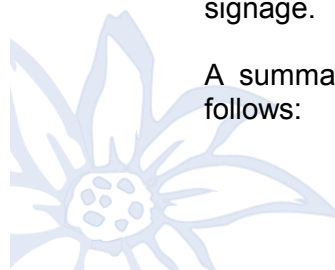
A condition of consent has been imposed in the draft conditions to ensure compliance with the requirements of Energy Australia.

c) NSW Rural Fire Service

The application was referred to the NSW Rural Fire Service under Section 91 of the *Environmental Planning and Assessment Act 1979* as the subject site is identified as Bushfire Prone Land and the proposed works constitute integrated development.

No objection was raised to the proposed increase in student numbers and the erection of signage.

A summary of the 'General Terms of Approval' from the NSW Rural Fire Service is as follows:



i) **Evacuation and Emergency Management**

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments.

The existing Evacuation and Emergency Management Plan is to be updated to reflect the changes in occupant numbers.

A condition of consent has been imposed in the draft conditions to ensure compliance with the 'General Terms of Approval' of the NSW Rural Fire Service.

Internal Referrals

a) **Natural Environment Unit**

The application was referred to Council's Natural Environment Unit as the subject site contains the known threatened species *Grevillea caylei*.

The Natural Environment Unit note that no vegetation is to be removed or damaged at any time unless in accordance with an approved plan/s. Should the applicant wish to undertake vegetation removal in the future, a development applicant will be required with the submission of a flora and fauna assessment in accordance with s5A of the Environmental Planning and Assessment Act, 1979.

Accordingly, no objection was raised to the proposed increase in student numbers and the erection of signage subject to conditions of consent which will be imposed should this application be recommended for approval.

b) **Traffic Engineers**

The application was referred to Council's Traffic Engineers.

The traffic impact associated with the increase in student numbers was subsequently considered by the Warringah Traffic Committee (WTC) on 3/9/2010.

Council's Traffic Engineers stated that there is an existing satisfactory provision of on-site carparking. Subsequently, no objection was raised to the proposed increase in student numbers and erection of signage subject to conditions of consent, should this application be recommended for approval.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, are:

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	Refer to discussions on "State Environmental Planning Policy No. 55 – Remediation of Land", "State Environmental Planning Policy (Infrastructure) 2007" and "WLEP 2000" in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	Refer to discussions on Draft Environmental Planning Instruments as contained in this report.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan is applicable to this application and the relevant provisions are considered in this report.

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the regulations	Clause 54 and 109 of the EPA Regulations 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this Clause within the Regulations.
Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the General Principles of Development Control in this report.</p> <p>(ii) The proposed development will have a detrimental social impact in the locality considering the character of the proposal and the localised adverse impacts from increased intensity of the land use.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the educational establishment nature of the existing and proposed land use.</p>
Section 79C (1) (c) – the suitability of the site for the development	<p>The increase in student numbers at the John Colet School will increase the demand for areas of functional open space to cater for play areas and the outdoor activities of the school.</p> <p>The inability to accommodate such areas places increased reliance upon the use and existence of Wyatt Reserve (public open space) opposite, to cater for these active outdoor recreational and daily operational uses.</p> <p>The site is further restricted from constraints relating to bushfire prone land and threatened species management. In addition to this, Built Form Controls within the C8 Belrose North locality statement require 50% of the site area to be maintained as bushland.</p> <p>The additional student population will intensify the need for open space and additional facilities including carparking, which will impact on the remnant bushland and threatened species conservation. For these reasons, the proposed development is considered to be an overdevelopment of the site.</p> <p>On balance, the proposed development is not considered to be a '<i>low intensity and low impact</i>' use as required by the Desired Future Character statement and therefore, the site is not considered to be suitable for the proposed increase in student numbers.</p>
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	In regards to public submissions refer to the discussion on "Notification & Submissions" within this report.
Section 79C (1) (e) – the public interest	While submissions have been received both in support and objection to the development application, the proposal is not considered to be in the public interest as the proposal is not consistent with the Desired Future Character of the locality or the General Principles of Development Control.

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS:

Draft Warringah Local Environmental Plan 2009 (Draft WLEP 2009)

Definition: 'Educational Establishment'
Land Use Zone: E3 Environmental Management
Permissible or Prohibited: 'Educational Established' is identified as a prohibited land use in the E3 Environmental Management zoning.



Principal Development Standards:

Development Standard	Required	Proposed	Complies
Minimum Subdivision Lot Size:	2.0ha	No alteration to the existing	Complies
Height of Buildings:	8.5m	No alteration to the existing	Not applicable

The proposed development is consistent with the Principal Development Standards.

The subject site is zoned E3 Environmental Management under Draft WLEP 2009.

The objectives of the E3 Environmental Management Zone is:

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.
- To provide for a limited range of development that does not have an adverse effect on those values.
- To ensure that development, by way of its character, design, location and materials of construction, is integrated into the site and natural surroundings, complements and enhances the natural environment and has minimal visual impact.
- To protect and enhance the natural landscape by preserving remnant bushland and rock outcrops and by encouraging the spread of indigenous tree canopy.
- To protect and enhance visual quality by promoting dense bushland buffers adjacent to major traffic thoroughfares.

The proposed development is inconsistent with the aims and objectives of the Draft WLEP 2009.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPI's)

State Environmental Planning Policies (SEPPs)

State Environmental Planning Policy No 55 – Remediation of Land

Clause 7(1)(a) of SEPP 55 requires the consent authority to consider whether land is contaminated.

Council records indicate that the subject site has been consistently used for educational purposes (formerly residential) for a significant period of time. There is no evidence to indicate that the land is contaminated and as such, no further consideration under Clause 7(1)(a) and (c) of SEPP 55 is required. Therefore the land is suitable for the continued residential use.

SEPP No. 64 – Advertising and Signage

Clauses 8 and 13 of SEPP 64 require Council to determine consistency with the objectives stipulated under Clause 3(1)(a) of the aforementioned SEPP and to assess the proposal against the assessment criteria of Schedule 1.

The objectives of the policy aim to ensure that the proposed signage is compatible with the desired amenity and visual character of the locality, provides effective communication and is of high quality having regards to both design and finishes.

In accordance with the provisions stipulated under Schedule 1 of SEPP 64, the following assessment is provided:



Matters for Consideration	Comment	Complies
<p>1. Character of the area Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?</p>	<p>The subject site is located within a residential locality which is characterised by detached style housing. Open playing fields (Wyatt Reserve) are located directly opposite the site, however the predominant character is low scale residential.</p> <p>The proposed signage is associated with the operation of the school and is for the purposes of business identification and directional signage.</p> <p>The application proposes the erection of 4 signs along the front property boundary which is not considered excessive given the length of the property frontage, however the signage is not consistent with the residential character of the streetscape.</p> <p>A submission of objection was received that has raised concern in that sign No.1 located in the south-western corner of the site is not associated with an entry point and is therefore not a necessary sign given the close proximity to the other identification signs.</p> <p>Accordingly, should this application be recommended for approval, a condition of consent would be imposed to delete sign No.1.</p>	<p>YES, subject to conditions</p>
<p>Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?</p>	<p>The proposed signage is consistent in the content, imaging and style which sets a signage 'theme' for the subject site.</p> <p>The locality contains a number of schools and land uses with business identification signage. In this regard, although the proposed signage is not consistent with the residential and semi-rural character of the locality, the signage is consistent with the them of signage associated with other similar land uses within the locality.</p>	<p>YES</p>
<p>2. Special areas Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?</p>	<p>The multiple signs along the street front elevation of the subject site will be visible within the streetscape and when viewed from residential properties.</p> <p>However the signage will not be visually obtrusive when viewed from within the streetscape or surrounding residential properties.</p>	<p>YES</p>
<p>3. Views and vistas Does the proposal obscure or compromise important views?</p>	<p>The signage does not compromise important views or vistas.</p>	<p>YES</p>
<p>Does the proposal dominate the skyline and reduce the quality of vistas?</p>	<p>The signage is set within a landscaped setting whereby there are landscape elements that surround the signage so that the signs do not visually dominate the skyline.</p>	<p>YES</p>
<p>Does the proposal respect the viewing rights of other advertisers?</p>	<p>As the subject site is located adjacent to a residential locality, characterised by detached style residential dwelling houses, signage is generally restricted within the locality due to the limited need for signs in residential / semi-rural areas. In this regard, the signage will not impact the viewing rights of other advertisers.</p>	<p>YES</p>

Matters for Consideration	Comment	Complies
4. Streetscape, setting or landscape Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The proposed signage is of a scale and size that does not visually dominate the streetscape.	YES
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The C8 Belrose North locality statement identifies 'further education' as Category 3 development which is development that is not envisaged nor encouraged within the locality. In this regard, signage of the quantity and scale proposed is not characteristic of a locality characterised by detached style residential dwellings. Accordingly, the signage does not contribute to the visual interest of the streetscape.	YES Subject to conditions
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The signage proposal indicates the erection of 5 individual signs both for business identification and directional purposes. The signage generally contains minimal text and the school crest whereby simplifying existing signage. The signage will not replace existing signage, but contribute to the existing signage.	YES
Does the proposal screen unsightliness?	The signage is set within a landscaped setting and is not erected in a location that screens unsightliness.	YES
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposed signage is below the finished height of the buildings and structures within the subject site and will be generally below the established tree canopy.	YES
5. Site and building Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The proposed signage is compatible with the scale and proportion of the existing buildings within the site.	YES
Does the proposal respect important features of the site or building, or both?	The signage is predominantly free standing pylon signage with the exception of sign No.5 which is to be flush mounted to the external wall of the building. This sign will not conceal important features of the building including windows and doors.	YES
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposed signage is of a standard profile and design and does not show specific innovation or imagination in its design. However, the signs are not incompatible to their relationship to the built form.	YES
6. Associated devices and logos with advertisements and advertising structures Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	The signage will include the school crest. No safety devices including platforms or lighting are necessary for the signage.	YES
7. Illumination Would illumination result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation?	Illumination of the signage is not proposed.	Not applicable

Matters for Consideration	Comment	Complies
Can the intensity of the illumination be adjusted, if necessary?	Illumination of the signage is not proposed.	Not applicable
Is the illumination subject to a curfew?	Illumination of the signage is not proposed.	Not applicable
8. Safety Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	The signage contains minimal text and the logo is not visually detracting. Directional signage will be located within the subject site. Accordingly, the signage will not reduce the safety for pedestrians or bicyclists on the public road.	YES
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The signage contains minimal text and the logo is not visually detracting. Directional signage will be located within the subject site. The signage is generally pylon signs allowing for visual penetration through the base of the signage, allowing for sight lines from public areas.	YES

Clause 14 of SEPP 64 stipulates that consent for signage is to expire 15 years after the date of consent. Should this application be recommended for approval, a condition of consent would be imposed in this regard.

Accordingly, although the proposed signage is not a consistent or desired feature of the streetscape which is characterised by detached style dwelling houses, the signage is considered to be of a scale and design suitable for the site. The proposal is therefore deemed to be consistent with the provisions of the SEPP and its underlying objectives.

State Environmental Planning Policy - Infrastructure

Clause 45 of SEPP Infrastructure requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists),
- immediately adjacent to an electricity substation,
- within 5m of an overhead power line
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5m of an overhead electricity power line

The proposal is not within or immediately adjacent to any of the above electricity infrastructure and does not include a proposal for a swimming pool; as such the development application is not required to be referred to the electricity supply authority. In this regard, the subject application is considered to satisfy the provisions of Clause 45 SEPP Infrastructure.

Regional Environment Plans (REPs)

There are no Regional Environmental Planning Policies applicable to this application.



STATUTORY CONTROLS

Warringah Local Environmental Plan 2000

Desired Future Character – C8 Belrose North

The subject site is located in the C8 Belrose North Locality under Warringah Local Environmental Plan 2000. The Desired Future Character Statement for this locality is as follows:

'The present character of the Belrose North locality will remain unchanged except in circumstances specifically addressed as follows.'

The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be grouped in areas that will result in the minimum amount of disturbance of vegetation and landforms and buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.

Development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses.

A dense bushland buffer will be retained or established along Forest Way. Fencing is not to detract from the landscaped vista of the streetscape.

Development in the locality will not create siltation or pollution of Middle Harbour.

The proposed development is defined as 'further education' according to the WLEP 2000 Dictionary. 'Further education' is classified as Category 3 development in this locality.

Clause 12(3)(b) states that before granting consent for development classified as Category 3, the Consent Authority must be satisfied that the development is consistent with the Desired Future Character described in the relevant Locality Statement.

Reference is made to *DEM Gillespies v Warringah Council [2002] NSWLEC224* where it was held that 'Consistent' in the WLEP 2000 means 'capable of existing together in harmony'. It is insufficient to merely ask whether, notwithstanding the proposed development, the locality as a whole, would retain its character; WLEP 2000 requires that each and every development be consistent with the DFC individually.

Accordingly, an analysis of the various relevant components of the Desired Future Character of the C8 Belrose North Locality is as follows:

Requirement 1: *'The present character of the Belrose North locality will remain unchanged except in circumstances specifically addressed as follows.'*

Response: The proposal will maintain the existing use of the site as a 'further education'.

Requirement 2: *'The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be grouped in areas that will result in the minimum amount of disturbance of vegetation and landforms and buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.'*

Response: No additional landscaping is proposed to enhance the existing landscaped setting. In fact the Development Application involves the provision of 8 new carparking spaces which will diminish the amount of landscaped open space of which will detract from the landscape amenity of the site. It is considered that the proposed carparking will impact on the natural landscape in that additional carparking spaces are proposed, being dispersed around the subject site and amongst existing vegetation.

The DFC requires new *'buildings to be grouped in areas that will result in the minimum amount of disturbance of vegetation and landforms'*. Although the DFC refers to 'buildings' this component is considered to extend to the provision of carparking being an ancillary use, and in this regard, carparking should be grouped together to minimise the amount of disturbance of vegetation and landforms. Were the carparking proposed in one central location, or a number of discreet groups,

individual carparking spaces would not be dispersed around the site and amongst remnant native vegetation.

In this regard, the proposed carparking does not 'result in the minimum amount of disturbance of vegetation'.

Requirement 3: 'Development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses.'

Response: The proposed development is not for housing, however the proposal to increase student numbers is not considered to result in a size and scale of development on the subject site which is 'low intensity, low impact.'

The meaning of 'low-intensity, low-impact' was considered in *Vigor Master Pty Ltd v Warringah Council [2008] NSWLEC 1128*, where Commissioner Hoffman quoted the Council Development Assessment Officer to assist in understanding these terms:

'Intensity – is commonly used to identify the nature of the proposal in terms of its size and scale and the extent of activities associated with the proposal. Therefore 'low-intensity' would constitute a development which has a low level of activities associated with it.

Impact – is commonly used in planning assessment to identify the likely future consequences of proposed development in terms of its surroundings and can relate to visual, noise, traffic, vegetation, streetscape privacy, solar access etc. Therefore, 'low-impact' would constitute a magnitude of impacts such that was minimal, minor or negligible level and unlikely to significantly change the amenity of the locality.'

The school currently relies upon the existence and use of the adjoining public open space (Wyatt Reserve) to cater for the daily outdoor functions and active recreational uses. The fact that these essential activities associated with the core functioning of the school cannot be accommodated for within the confines of the subject site, demonstrates that the subject site currently cannot accommodate for the existing school population of 150 and the increase to 225 would substantially increase the reliance and intensity of the use of Wyatt Reserve as functional open space.

In further responding to the 'low intensity' requirements, 'student density' is also a relevant consideration, whereby a 'low intensity' development would envisage a student population relative to the site area. The subject site has an area of 11,790sqm and currently has a population density of 1 student per 78.6sqm of site area.

The proposed student population of 225 would result in a population density of 1 student per 52.4sqm. However, the fact that 50% of the site is to remain as bushland as required by the Built Form Controls, together with the fact that the majority of the bushland area is identified as containing threatened species and cannot be developed, the ratio should be based on the 'developable' area of the site. In this regard, the increased student population would result in a density of 1 student per 26.2sqm.

Comparisons have been drawn with schools of a similar student population within the locality and the comparisons are as follows. It is noted that the schools used in this comparison are not identified as containing threatened species. In this regard, the requirement of 50% of the site to be bushland is dispersed throughout the site and the ratio is based on the total site area.

School	Site Area	Student Population	Student to site area ratio
Christian Covenant School	35,138.3sqm	900 maximum	1 student per 39.0sqm
Kamaroi School	10,156.9sqm	212 maximum	1 student per 47.9sqm
Yanninganook	20,044.1sqm	21 maximum	1 student per 954.4sqm

Each of the three schools used in the above comparison provide areas of functional open space within the confines of the subject site, accommodating for the outdoor activities and active recreation of the student population.

Accordingly, the increased use and reliance on the public open space, the additional demand for carparking and the high student population density, demonstrates that the proposed development is not a 'low intensity' development.

The increased traffic generation within Wyatt Avenue and the surrounding streets would generate increased activity and traffic movements inconsistent with a 'low-impact' use. This is demonstrated through the increased volume of vehicle movements requiring the re-phasing of the traffic lights at the intersection of Wyatt Avenue and Forest Way, the inability to accommodate for student drop-off and pick-up areas together with limited carparking within the subject site and the increased bus movements along Wyatt Avenue.

Accordingly, the increased traffic generation demonstrates that the development is not a 'low-impact' use.

Requirement 4: 'A dense bushland buffer will be retained or established along Forest Way. Fencing is not to detract from the landscaped vista of the streetscape.'

Response: Not applicable.

Requirement 5: Development in the locality will not create siltation or pollution of Middle Harbour.

Response: The subject site will not create siltation or pollution of Middle Harbour.

Therefore having regards to the above the proposed development is not consistent with the desired future character for the C8 Belrose North Locality.

Built Form Controls for Locality C8 Belrose North

Built Form Controls are not applicable to the proposed development.

Built Form Controls			
Control	Required	Proposed	Compliance
Bushland Setting	Minimum of 50% of the site is to be kept as natural bushland or landscaped with local species.	The proposed development results in approximately 53.1% of the site as natural bushland and areas landscaped with local native species.	YES

Clause 20 – Variation to Built Form Controls

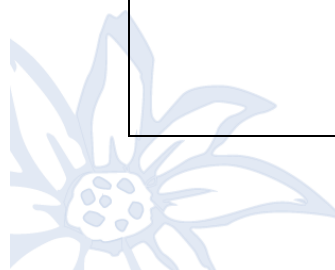
Not applicable to this development.

GENERAL PRINCIPLES OF DEVELOPMENT CONTROL

The following General Principles of Development Control as contained in Part 4 of Warringah Local Environmental Plan 2000 are applicable to the proposed development:

General Principles	Applies	Comments	Complies
CL38 Glare & reflections	NO	No comment.	Not applicable
CL39 Local retail centres	NO	No comment.	Not applicable

General Principles	Applies	Comments	Complies
CL40 Housing for Older People and People with Disabilities	NO	No comment.	Not applicable
CL41 Brothels	NO	No comment.	Not applicable
CL42 Construction Sites	NO	No comment.	Not applicable
CL43 Noise	NO	No comment.	Not applicable
CL44 Pollutants	NO	No comment.	Not applicable
CL45 Hazardous Uses	NO	No comment.	Not applicable
CL46 Radiation Emission Levels	NO	No comment.	Not applicable
CL47 Flood Affected Land	NO	No comment.	Not applicable
CL48 Potentially Contaminated Land	NO	No comment.	Not applicable
CL49 Remediation of Contaminated Land	NO	No comment.	Not applicable
CL49a Acid Sulfate Soils	NO	No comment.	Not applicable
CL50 Safety & Security	NO	No comment.	Not applicable
CL51 Front Fences and Walls	NO	No comment.	Not applicable
CL52 Development Near Parks, Bushland Reserves & other Public Open Spaces	YES	<p>The subject site is located directly opposite Wyatt Reserve which contains a tennis centre and open playing fields.</p> <p>Currently, the John Colet School uses this public open space for outdoor activities including sports carnivals and active recreation.</p> <p>In September 2009, consent was granted under the NSW State Government's Nation Building Economic Stimulus Plan for the construction of a new building. This building is located over the only area of functional open space within the subject site and as Council was not the Consent Authority, Council had no jurisdiction over the location of the building to ensure the residual areas of open space were still able to accommodate for the outdoor uses associated with the daily operations of the school.</p> <p>Subsequently, the school has increasingly been relying upon the existence of the public reserve and the use has been intensifying to the point where it is used on a daily basis to accommodate the school's outdoor activities and active recreation.</p> <p>Submissions of objection have been received from multiple properties within the locality raising concern that the outdoor activities and active recreation of the existing school population cannot be accommodated for within the</p>	NO



General Principles	Applies	Comments	Complies
		<p>subject site, which has resulted in an intensification of the use of Wyatt Reserve and subsequently, restricting the availability to legitimate users of the public.</p> <p>This General Principle seeks to ensure that development adjacent to parks, bushland reserves and other public open spaces, complements the landscape character and public use and enjoyment of the land.</p> <p>The John Colet School is considered to have an equal right of access to use Wyatt Reserve as any other resident or organisation within Wyatt Avenue or Belrose or the wider locality as the open space is for the use and enjoyment of the public as a whole. However, such use by any individual or organisation should not restrict the availability or access to the public open space for other users.</p> <p>This General Principle also seeks to ensure that development does not result in a perceived privatisation of the public open space. The submissions of objection have raised the question of whether the John Colet School has purchased this area of open space from Council, given the frequency of its use for school activities. In this regard, there is already a perceived sense within the community of privatisation of Wyatt Reserve to the benefit of the John Colet School.</p> <p>Wyatt Reserve also provides for 37 carparking spaces for the convenience of park users. The Traffic Report prepared by McLaren Traffic Engineering indicates that these carparking spaces are relied upon to achieve the necessary provision of carparking associated with the school population. This further contributes to the perception of privatisation of the public facilities.</p> <p>It is a reasonable expectation that a school, regardless of the location or size, would accommodate for the activities and facilities associated with the daily operation of the school within their site. It is unreasonable to rely on the existence of the adjoining public open space (Wyatt Reserve) to serve such purposes as it results in a perceived privatisation of the public open space, it restricts the availability and access to the facility to other users and it demonstrates an inappropriate and overdevelopment of the subject site.</p> <p>Accordingly, the proposed development does not satisfy this General Principle.</p>	
CL53 Signs	YES	<p>The following assessment is undertaken with regard to the relevant sections of the General Principle:</p> <p>The number, size, shape, extent, placement and content of signs are to be limited to the extent necessary to:</p> <ul style="list-style-type: none"> allow the reasonable identification of the land use, business, activity or building to which the sign relates, <p>The proposed signage achieves an appropriate level of business identification for the site without significantly impacting on the amenity of the locality.</p> <ul style="list-style-type: none"> ensure that the sign is compatible with the design, scale and architectural character of the building or site upon which it is to be placed, <p>The location and size of the proposed signage is considered to be compatible with the scale, proportion and other characteristics of the site and buildings.</p>	YES Subject to conditions

General Principles	Applies	Comments	Complies
		<p>• ensure that the sign does not dominate or obscure other signs or result in visual clutter.</p> <p>The subject site is located within a residential area characterised by detached style dwelling houses. In this regard, signage is not a characteristic of the streetscape. In this regard, although not a desirable element, the signage will not dominate other signage within the streetscape.</p> <p>A submission of objection was received raising concern over proposed sign No.1 in that it is not located at any entry point to the site and is therefore not necessary for directional or business identification purposes. Subsequently, the objector requests that this sign be removed. This contention is concurred with and sign No.1 is isolated in its proposed location and there is sufficient business identification signage at the entry points to the site. In this regard, should this application be recommended for approval, a condition of consent would be recommended to delete this sign.</p> <p>• ensure that the sign does not endanger the public or diminish the amenity of nearby properties.</p> <p>Due to the location of the proposed signage there will be no adverse impact upon the safety for any public road, pedestrians or bicyclists, the signage will not result in the obscuring of any views and does not have an unreasonable visual impact on the adjoining or nearby properties.</p> <p>The signage proposes the following dimensions and content:</p> <p>Sign 1, will be located on the boundary to Wyatt Ave towards the west. This sign will identify the school and has a height of 0.785m and width of 2.335m. The sign sits on two supports and will provide an overall height to the sign of 3.09m and an area of 1.8sqm.</p> <p>Sign 2 is proposed on top of a brick pier. The sign will again identify the school and will be located adjacent to the existing driveway in the middle of the site. The sign will have height of 0.52m with a width of 0.45m and will have an area of 0.24sqm.</p> <p>Sign 3 is a directional sign and will be located just behind the fence towards the east. It will be adjacent to the pedestrian path and will indicate pedestrian access. The sign will have a height of 0.29m with a width of 0.7m and will sit on top of a pedestal post to provide an overall height of 2.015m. The sign will have an area of 0.175sqm.</p> <p>Sign 4 will also be a directional sign. It will provide a map and layout of the school to provide directions for visitors to the school. The sign is located inside the site and will measure 1.495m in height with a width of 1.025m and will sit on top of two leg supports to provide an overall height of 2.29m. The sign will have an area of 1.53sqm.</p> <p>Sign 5 will be an identification sign and will be, located on the brick wall of Shakespeare House. The sign will include the school name and crest. The crest will have a height of 1m and width of 0.9m with an area of 0.9sqm. The letters will be 0.2m high over a distance of 2.1m and will cover an area of 0.42sqm. Overall, the area of signage is 5 sqm.</p> <p>Accordingly, the signage is considered to satisfy this General Principle.</p>	
CL54 Provision and Location of Utility Services	NO	No comment.	Not applicable

General Principles	Applies	Comments	Complies
CL55 Site Consolidation in 'Medium Density Areas'	NO	No comment.	Not applicable
CL56 Retaining Unique Environmental Features on Site	YES	<p>The subject site contains a significant portion of bushland vegetation which comprises threatened species.</p> <p>Additional carparking facilities are proposed as part of this application which are in the form of hard-stand parking spaces. 5 of the additional 8 spaces are proposed within the bushland setting which will impact on the aesthetic qualities of the bushland whereby vehicles will be dispersed throughout the site.</p> <p>The frequent use of these spaces will increase the intensity of activity within the bushland setting and potentially impact on threatened species on the site and is not supported.</p> <p>Accordingly, the proposed development does not satisfy this General Principle.</p>	NO
CL57 Development on Sloping Land	NO	No comment.	Not applicable
CL58 Protection of Existing Flora	YES	The plans indicate that all existing trees will be retained.	YES
CL59 Koala Habitat Protection	NO	No comment.	Not applicable
CL60 Watercourses & Aquatic Habitats	NO	No comment.	Not applicable
CL61 Views	NO	No comment.	Not applicable
CL62 Access to sunlight	NO	No comment.	Not applicable
CL63 Landscaped Open Space	YES	<p>This General Principle seeks to ensure that development provides for a provision of landscaped open space that is of such characteristics that will provide sufficient areas to accommodate the establishment of landscape plantings and accommodate appropriate outdoor recreational needs and suit the anticipated requirements of the occupants.</p> <p>While the subject site contains sufficient area for the accommodation of landscape plantings to further enhance the bushland setting, based on the current student population of 150, the site has an insufficient area of functional landscaped open space whereby relying on the adjoining public reserve to serve as the functional open space for the school. The increase in student numbers will result in added pressure and necessity for functional open space to suit the active recreational needs of the school population.</p> <p>The Built Form Controls within the C8 Belrose North locality statement requires 50% of the site area to be retained as bushland. There is an existing area of bushland at the rear of the site, which is generally 'off-limits' for most school activity owing to the fact that it contains threatened species, there is insufficient opportunity within the subject site to accommodate new areas of landscaped open space.</p> <p>In summary, to balance the increased intensity, the provision of 53.1% of the site area as bushland with areas containing native landscape plantings, achieves the numerical provision component of the Bushland Setting Built Form Control and this General Principle.</p>	NO

General Principles	Applies	Comments	Complies
		However, given the nature of the land use, being a school, it is a reasonable expectation that the provision of landscaped open space would include a substantial portion of functional open space to suit the active recreational needs of the school. The proposed development does not address nor achieve compliance with this component and therefore does not satisfy this General Principle.	
CL63A Rear Building Setback	NO	No comment.	Not applicable
CL64 Private open space	NO	No comment.	Not applicable
CL65 Privacy	NO	No comment.	Not applicable
CL66 Building bulk	NO	No comment.	Not applicable
CL67 Roofs	NO	No comment.	Not applicable
CL68 Conservation of Energy and Water	NO	No comment.	Not applicable
CL69 Accessibility – Public and Semi-Public Buildings	NO	No comment.	Not applicable
CL70 Site facilities	NO	No comment.	Not applicable
CL71 Parking facilities (visual impact)	YES	<p>The application proposes the provision of an additional 8 carparking spaces within the subject site to cater for staff carparking.</p> <p>The carparking spaces are dispersed throughout the site with no central carparking areas. While the carparking is loosely clustered, the carparking amongst significant vegetation and amongst buildings and circulation paths is considered to have an unacceptable visual impact. This is further demonstrated through the insufficient numerical provision of on-site carparking whereby vehicles are parking on an 'ad-hoc' and informal basis amongst areas designated as landscaped open space and in visually prominent areas as demonstrated in Figures 4 and 5.</p> <p>Accordingly, the proposed development does not satisfy this General Principle.</p>	NO
CL72 Traffic access & safety	YES	<p>The proposed increase in the student population will have a parallel increase in the traffic volumes associated with student pick-up and drop-off.</p> <p>Submissions of objection were received which raised objections to the increase in traffic volumes and the fact that the Traffic Report did not mention the traffic volumes in peak periods such as school events, out-of-hours activities and sporting carnivals.</p> <p>The Traffic Report submitted with this application prepared by McLaren Traffic Engineering was referred to Council's Traffic Engineers and the Roads and Traffic Authority for review. In principle, both departments accepted the development proposal and raised no objections on traffic management grounds subject to conditions to require the installation of a wombat road crossing which will be imposed should this application be recommended for approval.</p> <p>Accordingly, the proposed development satisfies this General Principle.</p>	YES
CL73 On-site Loading and Unloading	NO	No comment.	Not applicable

General Principles	Applies	Comments	Complies
CL74 Provision of Carparking	YES	<p>Currently, the subject site provides for 20 carparking spaces with 1 of the 20 spaces dedicated for disabled carparking.</p> <p>Schedule 17 of WLEP 2000 requires a provision of carparking at the following rate for 'Primary Schools / Further Education':</p> <p><i>1 space per staff member in attendance plus as relevant, adequate pick-up/setdown area on site plus adequate provision of bicycle racks</i> <i>adequate provision for student parking plus provision of a bus standing and turning area.</i></p> <p>The proposed increase in student numbers coupled with the additional 3 staff anticipated with the student increase, will result in a total number of 24 staff.</p> <p>In this regard, 24 carparking spaces would be required to accommodate for the staff parking within the site.</p> <p>The development proposes the provision of an additional 8 carparking spaces which gives a total provision of 27 carparking spaces. In this regard, the proposed development satisfies this component of Schedule 17.</p> <p>The Traffic Report prepared by McLaren Traffic Engineering states that the provision of carparking spaces for students is not required as the students are not of a driving age. This is concurred with.</p> <p>The Traffic Report also provides justification for not providing and accommodating on-site pick-up / setdown areas stating that this is not feasible in the circumstances given the location of the existing development, the topography of the site and the fact that existing pick-up / setdown is managed on-street within close proximity to the site.</p> <p>It is noted that the school relies on the existence of the carparking associated with Wyatt Reserve to achieve a satisfactory provision of on-street carparking together with kerbside carparking within the surrounding streets.</p> <p>Submissions of objection have been received which raise significant concerns regarding the provision of carparking, principally the fact that the school relies upon the carparking designated for users of Wyatt Reserve and that the kerb-side carparking is at a premium which is causing traffic and pedestrian conflicts.</p> <p>The potential for pedestrian and traffic conflicts was considered by Council's Traffic Engineers and the RTA who raised no objection to the development.</p> <p>On balance, the proposed development provides a numerical provision of carparking to suit the number of staff within the confines of the site and although not desirable, there is adequate kerbside carparking within the surrounding streets.</p> <p>Accordingly, the proposed development satisfies this General Principle.</p>	YES
CL75 Design of Carparking Areas	YES	<p>The existing provision of carparking is dispersed throughout the subject site.</p>	NO

General Principles	Applies	Comments	Complies
		<p>While the carparking is loosely clustered, the additional 8 carparking spaces are further sporadically dispersed throughout the site with no central carparking areas. As a result, carparking is located amongst significant vegetation which is also identified as threatened species at the rear.</p> <p>Council's Bushland Policy (Policy No.ENV-PL 005) seeks to ensure that development within bushland and sensitive bushland areas '<i>conserve and restore threatened species habitat in an environment that maximises ecological sustainability</i>' and '<i>protect, restore and enhance bushland</i>'.</p> <p>The proposed carparking amongst the significant bushland at the rear of the site will not '<i>conserve and restore threatened species habitat</i>' and does not '<i>protect, restore and enhance</i>' the bushland, intensifying the use of this area for undesirable activities.</p> <p>Carparking spaces Nos.1-15 and 25-27 are not formal delineated spaces and in this regard, permissible parking spaces are not clearly defined and as a result, vehicles are parking in various and inappropriate locations.</p> <p>Proposed carparking spaces 25-27 are located alongside the main vehicle driveway which is approved as soft landscaped open space. In this regard, the proposed carparking spaces visually detract from the landscaped setting of the site.</p> <p>The further introduction of carparking spaces amongst the school buildings and dispersed throughout the site increases internal traffic and pedestrian conflicts with carparking spaces interrupting pedestrian circulation paths.</p> <p>On balance, the inability to accommodate a central and singular carparking area or a couple of dedicated areas within the site that does not result in the carparking spaces dispersed throughout the site (and does not result in pedestrian conflicts), gives the perception that the provision of carparking is ad-hoc and demonstrates that the proposal uncoordinated development of the site and the provision of carparking cannot be appropriately accommodated for in ways that minimise impacts.</p> <p>Accordingly, the proposed development does not satisfy this General Principle.</p>	
CL76 Management of Stormwater	NO	No comment.	Not applicable
CL77 Landfill	NO	No comment.	Not applicable
CL78 Erosion & Sedimentation	NO	No comment.	Not applicable
CL79 Heritage Control	NO	No comment.	Not applicable
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service	NO	No comment.	Not applicable
CL81 Notice to Heritage Council	NO	No comment.	Not applicable

General Principles	Applies	Comments	Complies
CL82 Development in the Vicinity of Heritage Items	NO	No comment.	Not applicable
CL83 Development of Known or Potential Archaeological Sites	NO	No comment.	Not applicable

Other Relevant WLEP 2000 Clauses

Clause 15 'Does Category Three development involve extra procedures?'

The proposed development is defined as 'further education' according to the WLEP 2000 Dictionary. 'Further education' is classified as Category Three (3) development in the C8 Belrose North locality.

Clause 15 of WLEP 2000 states:

- '(1) Consent may be granted to development classified as Category Three only if the consent authority has considered a Statement of Environmental Effects that includes the items listed in Schedule 15.'*

Response: See assessment under the heading Schedule 15 within this report.

- '(2) The consent authority must not grant consent to an application that includes development classified as Category Three unless the consent authority has considered the findings and recommendations of an independent public hearing into the application, including reasons for its recommendations.'*

Response: The application has been referred to the Warringah Development Assessment Panel for consideration and determination.

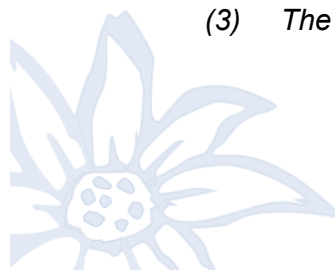
Clause 16 'How is existing Category Three development dealt with?'

The proposed development is defined as a 'Further Education' according to the WLEP 2000 Dictionary. 'Further Education' is classified as Category Three (3) development in the C8 Belrose North locality.

The applicant submitted the development application on the basis of the proposal being classified as "existing category 3 development" pursuant to Clause 16 of WLEP 2000.

Clause 16 of the WLEP 2000 states:

- (1) In this clause, existing Category Three development means development classified as Category Three that could have been lawfully carried out immediately before it became so classified, including development that could have been lawfully carried out at that time because it was an existing use, as defined in section 106 of the Act.*
- (2) Development applications for existing Category Three development consisting of:*
- (a) alterations or additions to, or the rebuilding of, a building, or*
 - (b) the expansion or intensification of existing Category Three development. which, in the opinion of the consent authority, is of a minor nature and does not, to any significant extent, change the scale, size or degree of any building or land use, may be granted consent even if the development is not consistent with the desired future character of the locality.*
- (3) The provisions of clauses 14 and 15 do not apply to such applications."*



In response to the provisions of Clause 16(2)(b) the inconsistency with the Desired Future Character Statement and the General Principles of Development Control, demonstrates that the proposed development will result in an intensification of the direct and ancillary operations of the school thereby the intensification by the proposed development cannot be described as being 'minor in nature'.

Accordingly, clauses 14 and 15 of WLEP 2000 apply to this development proposal.

SCHEDULES

A detailed assessment with regard to the provisions of the relevant Schedules of Warringah Local Environmental Plan 2000 is as follows:

Schedule 8 – Site Analysis

A Site Analysis plan was submitted as part of this application and is considered satisfactory in addressing the requirements of this Schedule.

Schedule 15 - Statement of Environmental Effects

Clause 15(1) of Warringah Local Environmental Plan 2000 requires that the consent authority must consider a Statement of Environmental Effects prepared in accordance with the criteria listed in Schedule 15. In addition, Clause 15(2) requires the consent authority to consider the findings of an independent public hearing prior to the determination of the application.

The applicant has submitted a Statement of Environmental Effects, prepared by City Plan Services, which addresses Schedule 15 of WLEP 2000. The following is provided having regard to these provisions:

Consideration	Proposed
(1) Summary of the Statement of Environmental Effects (SEE)	<p>With regard to Point 1 of Schedule 15 the applicant has provided the following: <i>'A summary which describes the subject site, the surrounding area the development and the relevant instruments and controls is provided at Sections 1 - 4 of this report.'</i></p> <p>Comment: The Statement of Environmental Effects prepared by City Plan Services dated July 2010 provides detailed discussion on the various aspects of the development proposal and is satisfactory.</p>
(2) Consistency of the proposal with the desired future character statement and general principles of development control established by the plan.	<p>With regard to Point 2 of Schedule 15 the applicant has provided the following: <i>'The proposed intensification of use at the school site and other works proposed are considered appropriate given the existing and historical operation of John Colet School.'</i></p> <p><i>It is considered that the expansion of the school, in terms of the number students will ensure that the school catchment area will have access to a greater choice of schooling options, with at least 6 choices for Primary schools within Belrose, NSW 2085. Expanding this type of use is an important component of the social fabric of an area, particularly with a growing population.</i></p> <p><i>The subject development is generally considered to be a "Low Impact" form of development.</i></p> <p><i>In particular, it is noted that the proposal does not involve the construction of any additional buildings or proposes any works aside from a small amount of directional signage. The application simply proposes an increase in the school population over a number of years. It is also noted that the increased number of students can wholly be accommodated within the existing and approved buildings on the site.</i></p> <p><i>We understand that Council are concerned about the additional traffic and parking movements as a result of the proposal.</i></p> <p><i>To this end, the accompanying traffic assessment sets out the additional impacts that will occur as a result of the proposal.</i></p>

Consideration	Proposed
	<p><i>In terms of parking, it is noted that the additional parking will be wholly located within the existing informal car parking areas on the site.</i></p> <p><i>In terms of additional traffic and car movements, as the traffic assessment sets out, the existing school principally creates increases in traffic movements at two limited times of the day. These being between 8 – 9am and 2.30 – 3.30pm. The proposed increase in student numbers will simply create a number of additional traffic movements at this time. As set out in the traffic report, it is considered that these increased traffic movements do not constitute material increase in activity and can therefore be categorised as low intensity and low impact in terms of their additional impact when compared to the existing situation.'</i></p> <p>Comment: A detailed assessment of the various applicable components of the Desired Future Character statement is provided in this report which demonstrates that the proposed development does not satisfy the DFC in that the development cannot be described as 'low-intensity, low-impact' development.</p> <p>Accordingly, the applicant's justification under this component is not concurred with.</p>
(3) Objectives of the proposed development.	<p>With regard to Point 3 of Schedule 15 the applicant has provided the following:</p> <p><i>'The objectives of the proposed development are to:</i></p> <ul style="list-style-type: none"> <i>• Sustainably increase student numbers at John Colet School to satisfy demand for student places;</i> <i>• Ensure that there will be no adverse impact on the surrounding community as a result of the increase in numbers; and</i> <i>• Provide signage to ensure that visitors and school staff alike are able to move around the campus easily.'</i> <p>Comment: The impacts on the surrounding community are discussed under the General Principles of Development Control section of this report which demonstrates that the proposed development will have an unreasonable impact on the locality.</p> <p>Accordingly, the applicant's justification under this component is not concurred with.</p>
(4) An analysis of feasible alternatives. (including (a) Consequences of not carrying out the development and (b) Justification for the development)	<p>With regard to Point 4 of Schedule 15 the applicant has provided the following:</p> <p>'Consequences of not carrying out the development</p> <p><i>The consequences of not carrying out the development include the lost opportunity:</i></p> <ul style="list-style-type: none"> <i>• To meet the increasing demand to educate children in Sydney due to the rising population;</i> <i>• To meet the demand for students requiring places at the school due to John Colet School's reputation as a school of excellence;</i> <i>• To give more children the opportunity to benefit from depth and breadth of John Colet School's curriculum;</i> <i>• To sustainably increase student numbers on the site;</i> <i>• To maximise the use of the existing buildings; and</i> <i>• to provide sufficient and clear signage throughout the school grounds</i> <p>Justification for the development</p> <p><i>The proposed development would continue to make an efficient and economic use of the existing site and infrastructure with minimal environmental impact.</i></p> <p><i>The proposed development simply proposes an increase in student numbers provides which in turn will strengthen the school's sense of identity.</i></p> <p><i>We understand that Council are concerned about the additional traffic and parking movements as a result of the proposal and that the increase could change the scale of the school use.</i></p> <p><i>To this end, it is again noted that no additional buildings are proposed as part of the application. Furthermore, the accompanying traffic assessment assesses the</i></p>

Consideration	Proposed
	<p><i>additional traffic and parking impacts that will occur as a result of the proposal.</i></p> <p><i>In terms of parking, it is noted that the additional parking will be wholly located within the existing informal car parking areas on the site.'</i></p> <p>Comment: The Applicant's SEE states '<i>...we understand that Council are concerned about the additional traffic and parking movements as a result of the proposal and that the increase could change the scale of the school use...to this end it is again noted that no additional buildings are proposed as part of the application...</i>'</p> <p>The Applicants SEE states that '<i>...the consequences of not carrying out the development include the lost opportunity to maximise the use of the existing buildings</i>'.</p> <p>In this regard, it is considered that the additional students will be accommodated for within the existing buildings.</p> <p>The provision of carparking is not calculated based on the gross floor area of the buildings, but principally based on the number of staff on the premises at any one time. Regardless of whether additional buildings are proposed or not, the increase in student numbers will subsequently increase the number of vehicle and bus movements for the pick up and setting down of students.</p> <p>Accordingly, it is unrealistic to state that traffic and parking movements will not be increased because there are no additional buildings proposed and the applicant's justification for this component is not concurred with.</p>
(5) Development and context analysis.	<p>With regard to Point 5 of Schedule 15 the applicant has provided the following:</p> <p><i>'Section 2 of this report provides a context analysis.'</i></p> <p>Comment: The site description and development and context analysis provided within Section 2 of the Applicant's SEE is concurred with.</p>
(6) Biophysical, economic and social considerations and the principles of ecologically sustainable development.	<p>With regard to Point 6 of Schedule 15 the applicant has provided the following:</p> <p><i>'Refer to Section 5 for an assessment with respect to the heads of consideration under Section 79C of the EP& A Act. It is considered that the proposed development will have no adverse environmental impact.'</i></p> <p>Comment: Refer to the detailed discussion against the provisions of Section 79(c) of this report which concludes that the proposed development is not suitable for the subject site and is therefore not in the public interest given that the proposal does not satisfy the requirements of WLEP 2000.</p> <p>Accordingly, the Applicant's justification of this component is not concurred with.</p>
(7) Measures to mitigate any adverse effects of the development on the environment	<p>With regard to Point 7 of Schedule 15 the applicant has provided the following:</p> <p><i>'Overall it is considered that the proposed development will have no adverse environmental impact. Assessment with respect to the heads of consideration under Section 79C of the EP& A Act is included at Section 5 as well as any recommendations or mitigation measures by the specialist consultants.'</i></p> <p><i>In summary the recommendations/mitigation measures are:</i></p> <ul style="list-style-type: none"> <i>• Traffic – the additional car parking demand will be catered for within the existing car parking spaces on the site.</i> <i>• The additional traffic movements associated with the increase in students proposed are minor and will not create any adverse material impacts on the surrounding area.'</i> <p>Comment: The assessment against the General Principles of Development Control section of this report demonstrate that the proposed development does not mitigate adverse impacts on the environment having regard to Clauses 52, 56, 63, 71 and 75 of WLEP 2000.</p> <p>Accordingly, the Applicant's justification of this component is not concurred with.</p>

Consideration	Proposed
(8) Other approvals required	<p>With regard to Point 7 of Schedule 15 the applicant has provided the following:</p> <p><i>'As you may be aware there is some deliberation between the applicant and Council as to whether the development application is to be treated as "Integrated Development" under Section 91 of the Environmental Planning and Assessment Act, 1979. And in terms of the bushfire prone status of the site.</i></p> <p><i>To this end, and as agreed with Council staff at the pre-DA meeting, the application will be referred to the Rural Fire Service for their comments, and as part of the DA referral process.</i></p> <p><i>An assessment by Actinotis Bushfire Consultants is also included at Appendix D.'</i></p> <p>Comment: The application was referred to the NSW Rural Fire Service who have raised no objection to the proposed development, subject to conditions of consent which will be imposed should this application be recommended for approval.</p> <p>Accordingly, the Applicant's justification of this component is concurred with.</p>

Notwithstanding the fact that the applicant's justification is contrary to the outcomes of this assessment, it is considered that the Schedule 15 details submitted with the Statement of Environmental Effects prepared by City Plan Services dated July 2010 adequately addresses the provisions of Schedule 15 having regard to the Locality and the DFC.

Schedule 17 - Carparking Provision

See assessment under Clause 74 of the General Principles of this report.

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan

Section 94A Contributions are not applicable to this development as the proposed works are less than \$100,000.00.

OTHER MATTERS FOR CONSIDERATION

Threatened Species

The subject site is identified as containing the threatened species plant, *Grevillea cayeleyi*. Council's GIS mapping indicates that the bushland at the rear of the site is identified as containing the threatened species.

Insufficient information has been submitted with this application that clearly indicates the location of the threatened species in relation to the proposed works and to undertake an appropriate assessment of the potential impacts from the proposed activities associated with carparking amongst the bushland and threatened species area of the site must be addressed.

CONCLUSION

The proposal has been considered against the relevant matters for consideration under Section 79C of the EP&A Act 1979. This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and results in unreasonable impacts on surrounding, adjoining, adjacent and nearby properties.



The proposed development has been found to be inconsistent with the Desired Future Character statement in that the proposed increase in student numbers, together with the increased reliance and use of adjoining public open space to accommodate the daily outdoor uses and activities of the school and the increased demand in carparking and resulting traffic volumes demonstrate that the development is not a 'low-intensity, low-impact' use.

The proposed development has also been found to be inconsistent with Clause 52 *Development Near Parks, Bushland Reserves & other Public Open Spaces*, Clause 56 *Retaining Unique Environmental Features on-site*, Clause 63 *Landscaped Open Space*, Clause 71 *Parking Facilities (Visual Impact)* and Clause 75 *Design of Carparking Areas*. Insufficient information has been submitted also to enable a full and proper assessment having regard to the potential impacts on threatened species known to exist on the site.

It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed. Accordingly, the proposal is recommended for refusal.

RECOMMENDATION - REFUSAL

THAT the Warringah Development Assessment Panel recommends the General Manager to refuse Development Application No.DA2010/1170 for the increase in student numbers and signage on land at No.8 Wyatt Avenue, Belrose, subject to the reasons outlined as follows:

1. Pursuant to Section 79(C)(1)(a)(i) of the Environmental Planning and Assessment Act 1979, and Clause 12(3)(a) of the Warringah Local Environmental Plan 2000, the proposal is not consistent with the Desired Future Character Statement for the C8 Belrose North Locality statement within Warringah Local Environmental Plan 2000, in that;
 - a) The additional carparking spaces will diminish the amount of landscaped open space and the dispersed nature of the carparking will impact on the natural landscape;
 - b) The reliance and use of the adjacent public open space (Wyatt Reserve) demonstrates that the school cannot accommodate for the active outdoor activities and uses of the current student population and an increase in the student population would intensify the reliance and use of the adjacent public reserve and in this regard, the proposal is not considered to be a 'low-intensity' use.
 - c) The increased traffic volume and traffic movements, including the increased demand for kerb-side carparking, and necessity for re-phasing of the traffic lights at the intersection of Wyatt Avenue and Forest Way, demonstrate that the proposed development is not a 'low-impact' use.
2. Pursuant to Section 79(C)(1)(a) of the Environmental Planning and Assessment Act 1979 and Clause 12(1)(a) of Warringah Local Environmental Plan 2000, the proposed development is inconsistent with the following General Principles of Development Control:
 - a) Clause 52 – *Development near Parks, Bushland Reserves & other Public Open Spaces*.
 - b) Clause 56 – *Retaining Unique Environmental Features on-site*.
 - c) Clause 63 – *Landscaped Open Space*.
 - d) Clause 71 – *Parking Facilities (Visual Impact)*.
 - e) Clause 75 – *Design of Carparking Areas*.
3. Pursuant to Section 79(C)(1)(e) of the Environmental Planning and Assessment Act 1979, inability to accommodate for the reasonable daily functions of the school, principally the active recreational outdoor needs within the confines of the site and inconsistency with numerous General Principles of Development Control, demonstrates that the proposal does not meet the requirements of WLEP 2000 and is therefore not in the public interest.

