

SYDNEY NORTH PLANNING PANEL COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSNH-259
DA Number	Mod2021/0369
LGA	Northern Beaches
Proposed Development	Modification of Development Consent DA2019/1274 granted for alterations and additions to the existing school and an increase in student numbers to 1,091
Street Address	Lot 1 DP 1215531, 70 South Creek Road DEE WHY NSW 2099
Applicant/Owner	Neeson Murcutt + Neille Architects The Pittwater House Schools Ltd
Date of lodgement	21 June 2021
Number of Submissions	5
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	This Section 4.55(2) is referred to the SNPP as the application seeks to modify a development application determined by the SNPP which will result in a breach to a development standard of more than 10%, as per schedule 1 of the instructions on functions exercisable by Council on Behalf of the Regional Panel – Applications to Modify Development Consents.
List of all relevant s4.15(1) (a) matters	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act 1979 • Environmental Planning and Assessment Regulation 2000 • State Environmental Planning Policy No. 55 – Remediation of Land • State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 • State Environmental Planning Policy (Coastal Management) 2018 • State Environmental Planning Policy (Infrastructure) 2007 • Warringah Local Environmental Plan 2011 (WLEP 2011) • Warringah Development Control Plan 2011 (WDCP 2011)
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Attachment 1 – Draft Conditions • Attachment 2 – Architectural Plans • Attachment 3 – Landscape Plans • Attachment 4 – Access Report • Attachment 5 – BCA Report • Attachment 6 – Engineers Report • Attachment 7 – Arboricultural Report
Clause 4.6 requests	Not required as the application is a Section 4.55(2) Modification. Height breach is addressed in detail in the report.
Summary of key submissions	Traffic and Parking
Responsible Officer	Jordan Davies, Acting Principal Planner
Report date	27 October 2021

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

YES

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?
e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP. **YES**

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Not Applicable**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) condition **Not Applicable**

Conditions

Have draft conditions been provided to the applicant for comment? *Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report.* **YES**

Executive Summary

This Section 4.55(2) application seeks to modify development consent DA2019/1274 granted by the Sydney North Planning Panel (SNPP) for 'Alterations and additions to the existing school and an increase in student numbers to 1,091'.

The application is referred to the SNPP for determination as a portion of the proposed new works exceed the 8.5m building height development standard by more than 10%. The contravention of the development standard results from the proposed adjustment to the universal access core and the extension of the covered verandahs along the edge of the western and southern wing buildings, with these works between 8.7m and 11.56m and a variation of between 2.3% - 36.82%. The proposed works do not exceed the maximum building height approved under the original development application which was resulted from the universal access core approved at 11.56m.

In short, the modification seeks to amend the approved plans for the western and southern wing building by including additional covered verandahs and walkways, amendment to the universal access core, new outdoor access pathway, amendment to various windows/doors and amendment to the outdoor Amphitheatre area. The application also seeks to allow for the staged construction of the development and modification to a number of consent conditions to allow this to occur.

The application was notified for a period of 14 days and Council received five (5) submissions. The submissions raise issues regarding traffic and parking impacts from the school. However, the parking and traffic impacts were issues dealt with under the original development application DA2019/1274. The amendments sought under this application are not considered to give rise to additional parking or traffic impacts.

The contravention of the development standard resulting from the proposed extension to the covered verandahs are addressed in detail later in this report. The departure from the 8.5m development standard is supported given the proposed works are consistent with the existing scale of the south and west wing buildings and do not give rise to adverse amenity impacts upon neighbouring properties given the central location of the buildings within the site.

Overall, the proposed modifications to the development provide a positive outcome for the redevelopment of the school buildings and the proposal to provide for a staged construction allows for the orderly and economic development of the land and minimises disruption to school activities during

construction. The application is therefore recommended for approval to the SNPP, subject to the amended conditions outlined at the end of this report.

PROPOSED DEVELOPMENT IN DETAIL

The application seeks to amend the development consent DA2019/1274 which was approved on 28 October 2020 by the Sydney North Planning Panel for 'Alterations and additions to the existing school and an increase in student numbers to 1,091'.

This Section 4.55(2) Modification Application seeks to amend the development in the following way:

- Amend the conditions of consent to allow for the construction to occur in three (3) stages (the intent to limit the interruption of the functioning of the school). The modification application is supported by a staging plan and seeks to amend the conditions in the following way:

Amend Prior to Construction Certificate (CC) conditions No 8, 11, 12, 13, 14, 15, 16 and 17 to replace the words 'Prior to any, or the First CC' with the words 'Prior to the relevant CC' to allow staging to occur as per the submitted staging plan;

Amend Prior to Occupation Certificate (OC) conditions No. 32, 33, 35, 36, 37, 38, 39, 40, 41, 42 and 45 to replace the words 'Prior to any OC or Final OC' with the words 'Prior to the relevant OC' to allow staging to occur as per the submitted staging plan;

Amend Condition No. 5 which requires development contributions in line with the Northern Beaches Development Contributions Plan 2019 prior to the issue of the CC. The condition to be amended to allow staging of the development contributions in accordance with the submitted staging plan;

The proposal seeks the following amendments to the building design:

- Modification and extension of the universal access core along the entire north-western facade of the South Wing Building and the north-eastern facade of the West Wing Building. This extension includes balconies and a covered verandah off the South Wing and West Wing Building to improve connectivity and shading of these classrooms;
- New universal access pathway between the 'kiss and drop zone' to the canteen and new external stair to the south-western facade of the South Wing Building;
- New stairs and glass louvers to the north-western facade of the sports hall;
- New shade structures to the Amphitheatre and verandah off the north-eastern elevation of the West Wing building.

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;

- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 4.3 Height of buildings
Warringah Development Control Plan - B1 Wall Heights

SITE DESCRIPTION

Property Description:	Lot 1 DP 1215531, 70 South Creek Road DEE WHY NSW 2099
Detailed Site Description:	<p>The subject site consists of a single irregularly shaped allotment (see Figure 1, below) located on the northern side of South Creek Road, the eastern side of Parkes Road and the southern side of Westmoreland Avenue. The site has a surveyed area of 16,837.17m².</p> <p>The site currently accommodates 'The Pittwater House Schools', consisting of numerous school buildings, a swimming pool, car parking and other facilities.</p> <p>The site has a cross fall from north to south of approximately 16m. A large stormwater drain runs from the north east to the south west, mostly across the western parts of the site.</p> <p>Development immediately adjoining and surrounding the development is characterised by detached style residential dwellings to the north, south and west. There is a defence facility to the east along with attached townhouses. There is an industrial area further to the west.</p>

Map:



SITE HISTORY

The land has been used for a school for an extended period of time. A search of Council's records has revealed the following relevant history:

DA2019/1274

Development application for 'Alterations and additions to the existing school and increase in student numbers to 1,091' was approved by the Sydney North Planning Panel on 28 October 2020.

PLM2019/0175

A pre-lodgement meeting held to discuss the current proposal. Relevant comments provided in the notes included:

"The proposal is acceptable, subject to the applicant incorporating the recommendations within these notes and providing the required information at the lodgement of the DA."

Historical applications

There are a number of historical applications for this site including:

- FG2010/0031 for the basketball sports building,
- CDC2016/0021 for the installation of a demountable building,
- DA2013/0319 for alterations and additions to an Educational Establishment,
- DA2004/1600 for the erection of shade structures around existing swimming pool,
- DA2004/0299 for alterations & additions to the junior admin building M & amenities block,
- DA2003/1010 for the demolition of existing buildings at 13 Parkes Rd & 58 & 62 South Creek Rd, erection of new early childhood centre, play areas and carparking,
- DA2002/1933 for the demolition of existing administration & toilet block and erection of new administration & toilet block,
- DA2002/1332 for alterations & additions to the administration block,
- DA6000/6093 for swimming pool operating hours of 6.30AM-9.30PM.

Application History

A staging plan and a Quantity Surveyors Report was submitted as additional information to support the proposed staging of the development contributions. This information did not trigger any re-notification in accordance with Council's Community Consultation Plan.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2019/1274, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55 (2) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55 (2) - Other Modifications	Comments
<p>A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:</p>	
<p>(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and</p>	<p>The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2019/1274 for the following reasons:</p> <ul style="list-style-type: none"> - The proposed development adds onto previously approved elements being the verandahs and circulation areas off the communal lift core at the junction of the south wing and west wing buildings. - These elements provide a continuation of this space across each building, forming open balconies that provide circulation space and do not provide additional usable classroom floor area that would change the nature and intensity of the development as approved. - The balconies are a consistent visual appearance and style to those approved under the previous modification application. - The changes to footpaths, access ways and recreation areas (amphitheatre) is consistent with 'alterations and additions to a school' for which development consent was granted.
<p>(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and</p>	<p>Development Application DA2019/1274 did not require concurrence from the relevant Minister, public authority or approval body.</p>
<p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require, or</p> <p>(ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent; and</p>	<p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, and the Northern Beaches Community Participation Plan.</p>
<p>(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.</p>	<p>See discussion on "Notification & Submissions Received" in this report.</p>

Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 96 the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for an educational establishment for an extended period of time. The proposed development retains the existing use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of</p>

Section 4.15 'Matters for Consideration'	Comments
	<p>Structures. This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This Clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
<p>Section 4.15 (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>	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah/Manly/Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>See discussion on “Notification & Submissions Received” in this report.</p>
<p>Section 4.15 (1) (e) – the public interest</p>	<p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest.</p>

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 28/06/2021 to 19/07/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 5 submission/s from:

Name:	Address:
Mr Carmino Nazzareno Calabrese	58 Westmoreland Avenue COLLAROY NSW 2097
Jiaoyue Teng	56 Westmoreland Avenue COLLAROY NSW 2097
Yi Jun Chen	62 Westmoreland Avenue COLLAROY NSW 2097
Mrs Chon Im Leong	2081/1-5 Dee Why Parade DEE WHY NSW 2099
Ms Elke Maree Joris	9 Parkes Road COLLAROY NSW 2097

The following issues were raised in the submissions and each have been addressed below:

- *Impact resulting from the number of students proposed with regards to noise, traffic, parking and traffic safety.*

The matters raised within the submissions are addressed as follows:

- *Impact resulting from the number of students proposed with regards to noise (including traffic noise), traffic, parking and traffic safety.*

Comment:

All five (5) submissions received raised concern with the increase in student capacity and the resulting impacts of this increase in capacity, particularly in regards to traffic impacts (including parking, traffic noise, safety and traffic volume).

However, the issues relating to the increased school capacity and changes to the proposed parking and access arrangements were considered under the original development application by the Sydney North Planning Panel under DA2019/1274, which was approved on 28 October 2020.

This modification application does not seek to alter the student numbers, vehicular access points or change the parking for the site. Furthermore, it does not propose to increase floor area designated for classrooms or teaching. The application seeks to include the addition of balconies, covered verandahs, doorways, pedestrian pathways and amendment to an outdoor recreation space (amphitheatre).

Therefore, the issues raised in the objections have been considered and dealt with under the original application and the changes proposed under MOD2021/0369 do not result in additional traffic impacts or increase student capacity further.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>Supported no additional conditions</p> <p>The plans indicate that no additional significant landscape features are affected by the proposed modification.</p> <p>No objections are raised to approval with regard to landscape issues. Existing conditions are considered to still be relevant and adequate.</p>
NECC (Development Engineering)	<p>Supported no additional conditions</p> <p>No objections to the proposed modifications as the Stellan stormwater management and flooding report addresses the likely impacts and works required to mitigate the impacts.</p>
Strategic and Place Planning (Urban Design)	<p>Supported no additional conditions</p> <p>Summary</p> <p>The proposed modification (MOD2021/0369) to the approved scheme (DA2019/1274) represents additions to the development to improve connectivity, accessibility and amenity for the education establishment and users of the facility.</p> <p>In terms of additional impacts to the surrounding locality, the modifications are wholly within the core of the site and represent changes that will have little impact outside the establishment's grounds.</p> <p>The modifications partly comprise the following;</p> <p>DA 08 – South + West Wing Universal Core Plans</p> <ul style="list-style-type: none"> • The floor plates of the universal core as proposed in the approved DA application have been extended to the entire northwest façade of the South Wing Building and northeast façade of the West Wing Building. This will provide greater connectivity between classrooms and also shade; • New full height glazed openings onto proposed verandahs across all levels of the South and West Wing Buildings; • New shade umbrellas to amphitheatre; • New universal access pathway from Kiss and Drop Zone to school canteen; • New external stair to the southwest façade of the South Wing Building; <p>DA 08.1 – South + West Wing Universal Core Plans</p> <ul style="list-style-type: none"> • As above (DA 08); <p>DA 08.2 – South + West Wing Universal Core Plans</p> <ul style="list-style-type: none"> • As above (DA 08); <p>DA 08.3 – South + West Wing Universal Core Elevations + Sections</p> <ul style="list-style-type: none"> • As above (DA 08);

Internal Referral Body	Comments
	<ul style="list-style-type: none"> • <i>Perforated mesh balustrade to new covered verandahs along West and South Wing Buildings, powder coated paint finish;</i> • <i>Render and paint finish to South façade of South Wing Building, ground level of north façade of West Wing Building and ground level of east façade of South Wing Building.</i> <p>Comment</p> <p>The proposed addition of a new stair and lift resolve level access issues and connectivity across the site between buildings and outdoor areas. Similarly, the addition of covered access across the site provides a clear wayfinding strategy and increased amenity for users between buildings and landscaped outdoor activity areas.</p> <p>The proposed amendments represent further design development that demonstrates a holistic approach to the staged development across the site which considers amenity of users, connectivity, accessibility, and a sustainable whole of life approach to the future of the school.</p>
Strategic and Place Planning (Developer Contributions)	<p>Supported subject to conditions</p> <p>DA2019/1274 was approved by Council on 5 November 2020 for alterations and additions to existing school and an increase in student numbers to 1,091. Condition 5 of the development consent requires the payment of a monetary contribution of \$147,656.55. This was based on a total development cost of \$14,765,655.</p> <p>MOD2021/0369 seeks to amend the DA to:</p> <ul style="list-style-type: none"> • Extend the floor plates of the universal core as proposed in the approved DA application to the entire northwest façade of the South Wing Building and north east façade of the West Wing Building. This will provide greater connectivity between classrooms will provide improved shading. • New full height glazed openings onto proposed verandas across all levels of the South and West Wing Buildings and new shade umbrellas to amphitheatre. • New universal access pathway from Kiss and Drop Zone to school canteen and a new external stair to the southwest façade of the South Wing Building. • Stage the application to implement a number of construction certificates for the various aspects of the approval to minimise the disruption to the operation of the school during the construction works by focussing on limited localities so that the operation of the school can continue. For this reason the S4.55 amendment seeks to amend the Conditions of consent to remove the wording such as “prior to any, or the first CC/OC” and replace it with wording such as “the relevant, or the relevant CC/OC” to allow more flexibility with the timing and allow the school to continue to function efficiently during the construction works.

Internal Referral Body	Comments
	<p>The applicant has provided a cover letter that identifies proposed staging of the development as follows:</p> <ul style="list-style-type: none"> • Stage 1A: Kiss and Drop Driveway, new vehicular entrance to the school • Stage 1B: New external balconies and stairs to existing South and West Wing buildings including new universal lift core • Stage 2: Remainder of works not covered in Stage 1A or 1B. This includes the library and student services building, including minor works to existing M-Block and new parking areas. <p>The applicant has also provided an updated Quantity Surveying (QS) report identifying the cost of works within Stages 1A and 1B. The applicant's cover letter identifies that the cost of works of Stage 2 will be the remainder of works as per the original QS report provided.</p> <p>The QS report dated 21 June 2021 identifies the following costs for Stages 1A and 1B:</p> <ul style="list-style-type: none"> • Stage 1A: \$928,579 inc. GST • Stage 1B: \$3,946,626 inc. GST <p>GST must be included for the purpose of calculating development contributions. The cost of works of Stage 2 is \$9,890,450 being the remainder of the cost of works in the original QS report.</p> <p>The application is supported from a development contributions perspective and a staged contribution condition has been provided consistent with the applicant's proposed staging plan. The contribution for each relevant stage is required prior to the issue of the construction certificate for that stage in accordance with the Northern Beaches Section 7.12 Contributions Plan.</p> <p>The Ministerial Direction titled <i>Local Infrastructure Contributions – Timing of Payments</i> was released on 25 June 2020. This direction defers payment of monetary contributions to prior to the issuing of Occupation Certificate if the cost of works of the development is greater than \$10 million and the application does not include the subdivision of land. It is noted that the application meets these criteria. Pursuant to this Direction, and only if the applicant chooses, they may defer payment of all monetary contributions to prior to the issue of any Occupation Certificate, if a construction certificate is issued before 25 September 2022.</p>
Traffic Engineer	<p>Supported no additional conditions</p> <p>The proposed modification does not alter traffic, parking, and access.</p>

Internal Referral Body	Comments
	<p>The transport-related changes include the amendment on the Conditions of consents to remove the wording such as “prior to any, or the first CC/OC” and replace it with wording such as “the relevant, or the relevant CC/OC” to allow more flexibility with the timing and allow the school to continue to function efficiently during the construction works.</p> <p>The only concern is there is no proposed development staging plan provided.</p> <p>The transport team has no objection to the proposed changes indicated above.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP Educational Establishments and Child Care Facilities 2017

PART 4 - SCHOOLS

Part 4, Clause 35 of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 stipulates that:

(6) Before determining a development application for development of a kind referred to in subclause (1), (3) or (5), the consent authority must take into consideration—

(a) the design quality of the development when evaluated in accordance with the design quality principles set out in Schedule 4, and

(b) whether the development enables the use of school facilities (including recreational facilities) to be shared with the community.

The design quality principles are set out and addressed as follows:

Principle 1—context, built form and landscape

Schools should be designed to respond to and enhance the positive qualities of their setting, landscape and heritage, including Aboriginal cultural heritage. The design and spatial organisation of buildings and the spaces between them should be informed by site conditions such as topography, orientation and climate.

Landscape should be integrated into the design of school developments to enhance on-site amenity, contribute to the streetscape and mitigate negative impacts on neighbouring sites.

School buildings and their grounds on land that is identified in or under a local environmental plan as a scenic protection area should be designed to recognise and protect the special visual qualities and natural environment of the area, and located and designed to minimise the development's visual impact on those qualities and that natural environment.

Comment:

The proposed development is an addition to an existing school building which enhances the existing school buildings and amenity from the school without impact on neighbouring sites given the location of the balconies centrally within the site and facing away from neighbouring sites. The proposal does not effect the ability for enhancement of landscaping within the school grounds or impact upon the natural environment in a detrimental way.

Principle 2—sustainable, efficient and durable

Good design combines positive environmental, social and economic outcomes. Schools and school buildings should be designed to minimise the consumption of energy, water and natural resources and reduce waste and encourage recycling.

Schools should be designed to be durable, resilient and adaptable, enabling them to evolve over time to meet future requirements.

Comment:

The proposed additions make use of existing school buildings which is a sustainable option, making use of existing facilities. The material choice is robust for the balconies to allow longevity.

Principle 3—accessible and inclusive

School buildings and their grounds should provide good wayfinding and be welcoming, accessible and inclusive to people with differing needs and capabilities.

Note. Wayfinding refers to information systems that guide people through a physical environment and enhance their understanding and experience of the space.

Schools should actively seek opportunities for their facilities to be shared with the community and cater for activities outside of school hours.

Comment:

The application is accompanied by an access report which concludes the proposed amendments are accessible and inclusive for all students, including those with disabilities.

Principle 4—health and safety

Good school development optimises health, safety and security within its boundaries and the surrounding public domain, and balances this with the need to create a welcoming and accessible environment.

Comment:

The balconies provide additional sun shading and protection from the weather, which enhances the health and safety of the school environment.

Principle 5—amenity

Schools should provide pleasant and engaging spaces that are accessible for a wide range of educational, informal and community activities, while also considering the amenity of adjacent development and the local neighbourhood.

Schools located near busy roads or near rail corridors should incorporate appropriate noise mitigation measures to ensure a high level of amenity for occupants.

Schools should include appropriate, efficient, stage and age appropriate indoor and outdoor learning and play spaces, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage and service areas.

Comment:

The additional balconies provide undercover shelter and additional amenity for the students, including shading, protection from weather and improved circulation between spaces.

Principle 6—whole of life, flexible and adaptive

School design should consider future needs and take a whole-of-life-cycle approach underpinned by site wide strategic and spatial planning. Good design for schools should deliver high environmental performance, ease of adaptation and maximise multi-use facilities.

Comment:

The original development application included new building elements which add multi-use facilities to the school, satisfying this outcome.

Principle 7—aesthetics

School buildings and their landscape setting should be aesthetically pleasing by achieving a built form that has good proportions and a balanced composition of elements. Schools should respond to positive elements from the site and surrounding neighbourhood and have a positive impact on the quality and character of a neighbourhood.

The built form should respond to the existing or desired future context, particularly, positive elements from the site and surrounding neighbourhood, and have a positive impact on the quality and sense of identity of the neighbourhood.

Comment:

The proposed balconies have been designed in way that following the established building heights and alignments of the south and west wing building. The materials used are high quality and robust and have a positive impact on the design quality of the buildings which 'updates' and upgrades the existing older style school buildings.

SEPP 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 used for an educational establishment for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the educational establishment land use.

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP 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 5.0m 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 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised, and no conditions are recommended.

Roads and Maritime Service (RMS)

Clause 104 and Schedule 3 of the SEPP requires that the following development(s) are referred to the RMS as Traffic Generating Development:

Purpose of Development	Size or Capacity (Site with access to any road)	Size of Capacity (Site with access to classified road or to a road that connects to classified road if access is within 90m of connection, measured along alignment of connecting road)
Educational establishments	50 or more students	Not applicable

Comment:

The original development application was referred to TfNSW as the proposal sought to increase the number of students to 1,091. TfNSW supported the proposal. This modification application does not seek to change the number of students or alter any of the parking or traffic arrangements for the site and therefore further concurrence is not required from TfNSW.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

10 Development on certain land within coastal wetlands and littoral rainforests area

- (1) *The following may be carried out on land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:*
 - (a) *the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,*
 - (b) *the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,*
 - (c) *the carrying out of any of the following:*
 - (i) *earthworks (including the depositing of material on land),*
 - (ii) *constructing a levee,*
 - (iii) *draining the land,*
 - (iv) *environmental protection works,*
 - (d) *any other development.*

Comment:

The land is not within coastal wetlands or littoral rainforest area.

11 Development on land in proximity to coastal wetlands or littoral rainforest

- (1) *Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:*
 - (a) *the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
 - (b) *the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*

Comment:

The land is not within proximity to coastal wetlands or littoral rainforest.

12 Development on land within the coastal vulnerability area

Development consent must not be granted to development on land that is within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:

- (a) *if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and*
- (b) *the proposed development:*
 - (i) *is not likely to alter coastal processes to the detriment of the natural environment or other land, and*
 - (ii) *is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and*

- (iii) *incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and*
- (c) *measures are in place to ensure that there are appropriate response to, and management of, anticipated coastal processes and current and future coastal hazards.*

Comment:

Not within coastal vulnerability area.

13 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) *coastal environmental values and natural coastal processes,*
 - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) *Aboriginal cultural heritage, practices and places,*
 - (g) *the use of the surf zone.*

Comment:

The proposed works are located approximately 600m from Dee Why Lagoon and 1.2km from the ocean. The site is between 13m and 28m AHD.

Given the above, the works will not cause adverse impacts on the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment, the coastal environmental values and natural coastal processes, the water quality of the marine estate, marine vegetation, native vegetation and fauna and their habitats.

The development will have no impact on undeveloped headlands and rock platforms, existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability, Aboriginal cultural heritage, practices and places, the use of the surf zone.

- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
 - (a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
 - (b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Comment:

Council is satisfied the development has been designed to avoid impacts.

As such, it is considered that the application complies with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

15 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

The proposed development does not increase risk of coastal hazards.

Warringah Local Environmental Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principle Development Standards

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of buildings:	8.5m	11.235m New Library/Services	11.235m	36%	No – Unchanged
		11.56m universal access core	11.56m	36.82%	No – Unchanged
		8.7m – 10.6m Balconies to the south and west wing	8.7m – 10.6m	24.7%	No – Max height unchanged, however balconies extended further along south and west wing.

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

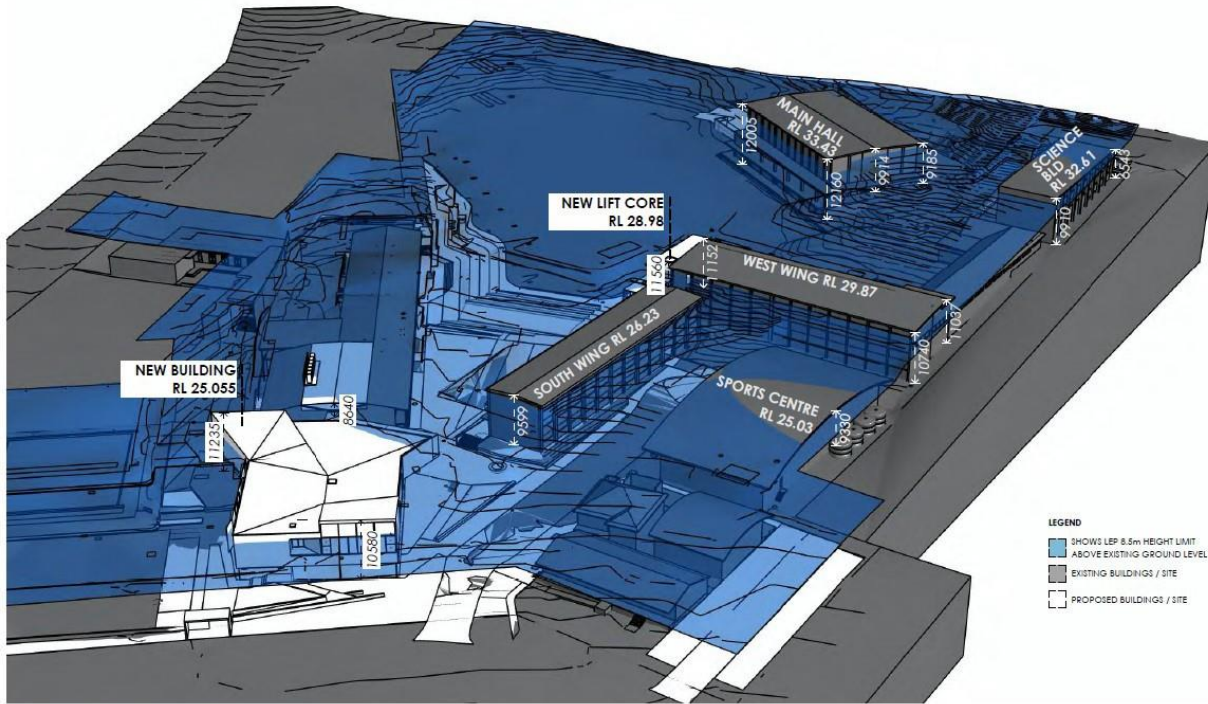
4.6 Exceptions to development standards

Whilst the modification application will result in a building height that exceeds the maximum permitted by Clause 4.3 of the WLEP 2011, the application does not strictly need to address the requirements of Clause 4.6. This application has been made under Section 4.55 of the Environmental Planning and Assessment Act 1979, which is a free-standing provision that authorises the development to be approved notwithstanding any breach of development standards. Section 4.55 is subject to its own stand-alone tests (such as substantially the same test and consideration of all relevant 4.15 matters) and does not rely upon having a Clause 4.6 variation in order to determine the modification application. Clause 4.6 regulates whether development consent may be granted, not whether an existing consent may be modified, and therefore does not apply to Section 4.55 modification applications. In accordance with this, the Applicant is not required to submit a written request to vary the height of buildings development standard. Nevertheless, an assessment of the variation is as follows:

Description of non-compliance:

Development standard:	Height of Buildings
Requirement:	8.5m
Approved under DA2019/1274	Universal access core and lift - 11.56m Balconies 8.7m - 10.6m
Proposed:	Universal access core and lift - 11.56m Balconies 8.7m - 10.6m, however extended further along elevation.
Percentage variation to requirement:	Up to 36.82%

The original development consent approved a Universal Access Core which contained a lift shaft, staircases, verandahs and undercover walkways at the junction of the South Wing and West Wing Buildings. The maximum height of this part of the development was up to 11.56m and the surrounding balconies varying between 8.7m and 10.6m depending on the natural ground level. The extent of the height non-compliance approved under DA2019/1274 is shown in below Figure 1.



4 8.5m HEIGHT PLANE AXONOMETRIC DIAGRAM
1:200

Figure 1 - Extent of non-compliance approved under original application DA2019/1274. Note, new library services building approved up to 11.235m and in excess of height limit.

The proposed modification to the development involves the extension of the balconies and verandah roofs along the faces of the South Wing and West Wing buildings extended from the approved universal access core area. The proposed extent of building height variation is shown in Figure 2 and Figure 3 below. The walkways adjoining the existing three storey buildings and do not protrude above the existing ridge line of the buildings which they attach to.

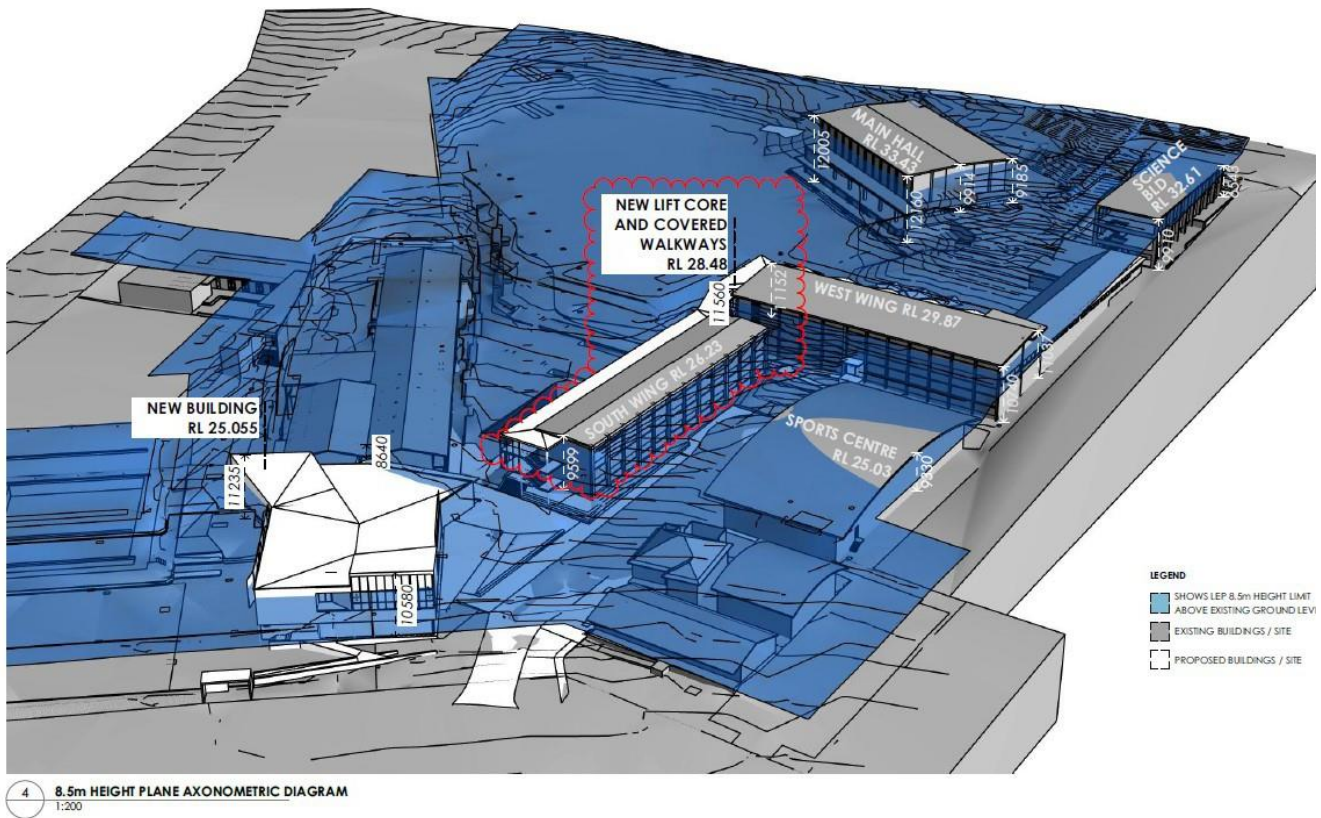


Figure 2 - Extent of non-compliance for the south and west wing buildings, with area of the development subject to amendment highlighted in a red cloud. No change to the library building.

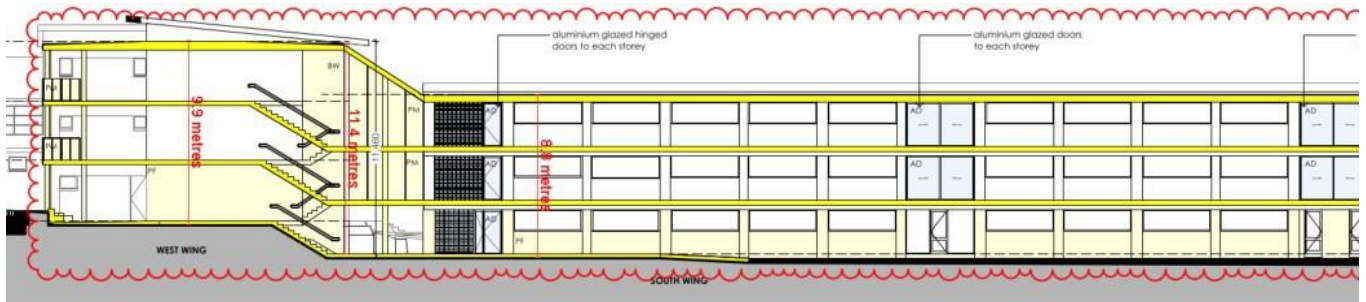


Figure 3 - Section plan along South Wing Building showing height of verandahs, lift core and roofs over.

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.3 – Height of Buildings development standard, has taken into consideration the judgements contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, *Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61*, and *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.

Clause 4.6 Exceptions to development standards:

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

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Comment:

Clause 4.3 – Height of Buildings development standard is not expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Secretary has been obtained.

Clause 4.6 (4)(a)(i) (Justification) assessment:

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). However, as this is a Section 4.55 Modification application the applicant is not required to submit a written request under Clause 4.6 or require the consent authority to be satisfied of such a written request. The applicant has provided within the Statement of Environment Effects a written outline and justification for the changes in support of the modification application.

Ordinarily, as part of the assessment of the Clause 4.6 written request there are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows (even though they do not strictly apply to a 4.55 Modification Application):

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment:

As this is a Section 4.55 Modification application, the applicant is not required to submit a written request under Clause 4.6. An assessment is made by Council later in this section regarding the building

height breach.

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

In the matter of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The applicant has stated within the documentation submitted to Council, in part:

- The subject S4.55 application amends the development approval by extending the floor plates of the universal core as proposed in the approved DA application to the entire northwest façade of the South Wing Building and north east façade of the West Wing Building. This will provide greater connectivity between classrooms will provide improved shading. The amendment includes new full height glazed openings onto proposed verandahs across all levels of the South and West Wing Buildings.*
- The proposal generally retains the envelope, layout and orientation of the approved development application DA2019/1274 and the proposal retains the height, roof form and generally retains the exterior design elements of the approval.*
- A new stair and a lift resolves the mis-alignment of levels between South and West Wings to provide equitable access to these buildings.*

- *The proposal is fundamentally sustainable, retaining the majority of existing buildings, and making strategic interventions to enable these buildings to work together, with universal access, to create a better campus whole.*
- *New buildings are scaled to the existing campus architecture, creating two storey structures using glazed brick to connect the new building with the existing predominantly red face-brick buildings, whilst bringing a new sense of light and fresh. Roofs are intentionally shaped to create building forms with a picturesque quality, making a positive contribution to the predominantly suburban character of the neighbourhood.*

Council generally agrees with the assertions made by the applicant in that the proposal is of good design and consistent with the previously approved maximum height, whilst introducing additional balconies that will improve the amenity of the school. The improvement to the existing school buildings is considered economic and sustainable development and an efficient use of the site. The area of additional balconies face internally within the school and do not give rise to any overlooking or overshadowing impacts. The balconies are of a scale that is consistent with the existing building and approved structures on the site.

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) assessment:

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the R2 Low Density Residential zone. An assessment against these objectives is provided below.

Objectives of development standard

The underlying objectives of the standard, pursuant to Clause 4.3 – 'Height of buildings' of the WLEP 2011 are:

(1) The objectives of this clause are as follows:

a) to ensure that buildings are compatible with the height and scale of surrounding and nearby

development,

Comment:

The proposed balconies are of a height that is consistent with the eave line of the existing south wing and west wing building and therefore maintain the existing height of the school buildings. The balcony additions also maintain a height consistent with the previously approved universal access core that was approved under the original application. The additions to the south wing and west wing building are centrally located within the site and do not have an unreasonable visual impact or unsightly from surrounding properties.

b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,

Comment:

Due to the central location of the south and west wing buildings, the proposed additions do not result in any privacy, view or solar access impacts.

c) to minimise adverse impact of development on the scenic quality of Warringah's coastal and bush environments,

Comment:

The site is not located adjacent to any particular bushland area and the buildings are located centrally within the site within an existing school development. The buildings are not visible from the coastline.

d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities,

Comment:

The additions are setback over 40m from the nearest public road and match the existing building height, therefore, not resulting in a visual impact or appear out of context.

Zone objectives

The underlying objectives of the R2 Low Density Residential zone are:

- *To provide for the housing needs of the community within a low density residential environment.*

Comment: This is not applicable to this development being for an educational establishment. The form of the development retains detached style buildings which is consistent with a low density style.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment: The proposal provides improvements and upgrades to an existing school facility that will better serve the needs of the community and residents through improvements to the exiting school site.

- *To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

Comment: The proposal maintains a compliant amount of landscaping within the site and retains

significant trees within the site. The site is already highly disturbed and not located in a particularly sensitive environmental area that will be impacted upon.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R2 Low Density Residential zone.

Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS20-002 dated 5 May 2020, as issued by the NSW Department of Planning & Infrastructure, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of buildings Development Standard is assumed by the Sydney North Planning Panel.

Warringah Development Control Plan

Built Form Controls

Standard	Requirement	Approved	Proposed	Complies
B1 Wall height	7.2m	10.89m	Universal core - 10.2m	No
B3 Side Boundary Envelope	4m	Compliant	Compliant	Yes
B5 Side Boundary Setbacks	Eastern boundary - 0.9m	Carpark 0.72m	No change to car park and new works comply	Yes
B7 Front Boundary Setbacks	South Creek Road - 6.5m	New Library - 11.5m	New works to south wing - 48m	Yes
B7 Secondary Street Setbacks	Westmoreland Avenue (north) - 3.5m Parkes Road (west) - 3.5m	Bus bay 2.2m	New works in excess of 80m	Yes
D1 Landscaped Open Space and Bushland Setting	40%	67.68% (11395.55sqm)	64% (10,849.60sqm)	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	No	Yes
B3 Side Boundary Envelope	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D18 Accessibility and Adaptability	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E7 Development on land adjoining public open space	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B1 Wall Heights

Description of non-compliance

The DCP requires a maximum wall height of 7.2m. The proposed section of universal access core is proposed up to 10.2m and is shown in the below figure. It is noted this is no higher than the wall height approved and supported under DA2019/1274. The variation is addressed below anyhow.

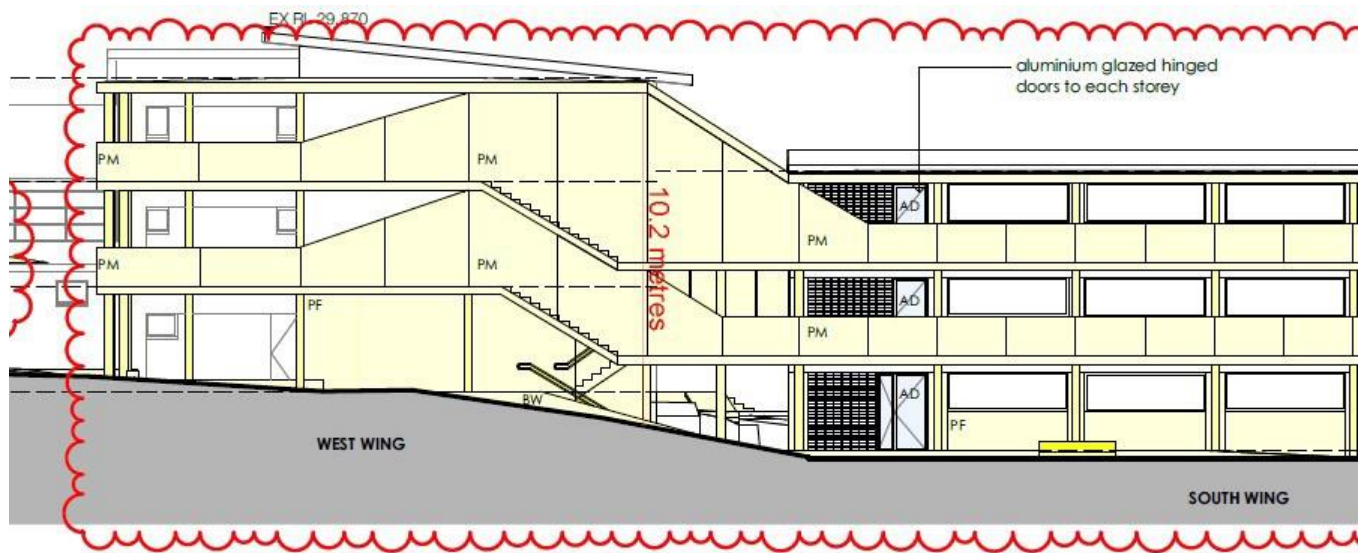


Figure 1- Extent of wall height on South Wing Building/universal access core.

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*

Comment:

The section of non-compliant wall height is centrally located within the school and faces inwards towards the school grounds, not resulting in a direct visual impact on surrounding properties or an area of public recreation or waterway. The South Wing building is setback at least 40m from the road and will not present a visual impact from the street. The wall height is consistent with the existing building height and forms part of the new universal access core and balconies which service the existing buildings.

- *To ensure development is generally beneath the existing tree canopy level*

Comment:

The development is no higher than the existing buildings which the balconies are attached to and therefore, will not be visually dominant when viewed within the existing tree canopy.

- *To provide a reasonable sharing of views to and from public and private properties.*

Comment:

The proposal does not result in a view impact.

- *To minimise the impact of development on adjoining or nearby properties.*

Comment:

The section of wall does not have a direct impact on surrounding properties with regards to views, overlooking or solar access.

- *To ensure that development responds to site topography and to discourage excavation of the natural landform.*

Comment:

The wall steps down between buildings to suit the existing topography and existing building floor levels, as shown in the above figure.

- *To provide sufficient scope for innovative roof pitch and variation in roof design.*

Comment:

The roof form of the buildings is unchanged via the development.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WLEP 2011, WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2021

The conditions in relation to the Section 7.12 contributions have been amended to allow staging of the contributions in line with the proposed staging of the development and each stages cost of works. This is discussed in detail earlier in the report under the referral from Council's Development Contributions Planner.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

The proposed modifications to the development are considered to result in a development that is substantially the same and consistent with the original development application. The proposed amendments to the awnings along the south and west wing buildings result in improved amenity for the school and make use of existing school infrastructure. The proposal seeks to amend the development consent to stage the conditions to allow the orderly and economic development of the land and minimises interruption to the school activities during construction. The proposal is therefore considered acceptable and is recommended for approval to the SNPP.

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Sydney North Planning Panel as the consent authority grant approval to Modification Application No. Mod2021/0369 for Modification of Development Consent DA2019/1274 granted for alterations and additions to the existing school and an increase in student numbers to 1,091 on land at Lot 1 DP 1215531, 70 South Creek Road, DEE WHY, subject to the conditions outlined in Attachment 1.