



Warringah Council

JRPP No	2011SYE048
DA Number	DA2011/0446
Proposed Development	Alterations and additions to an existing primary school and further education building (St Luke's Grammar School)
Street Address	Lot 2112, DP 752038, Lot 1, DP, 749109 and Lots 3 and 4, DP 8139, No.210 Headland Road, Dee Why
Applicant/Owner	Midson Group Pty Limited
Report by	Peter Robinson, Acting Director Strategic and Development Services

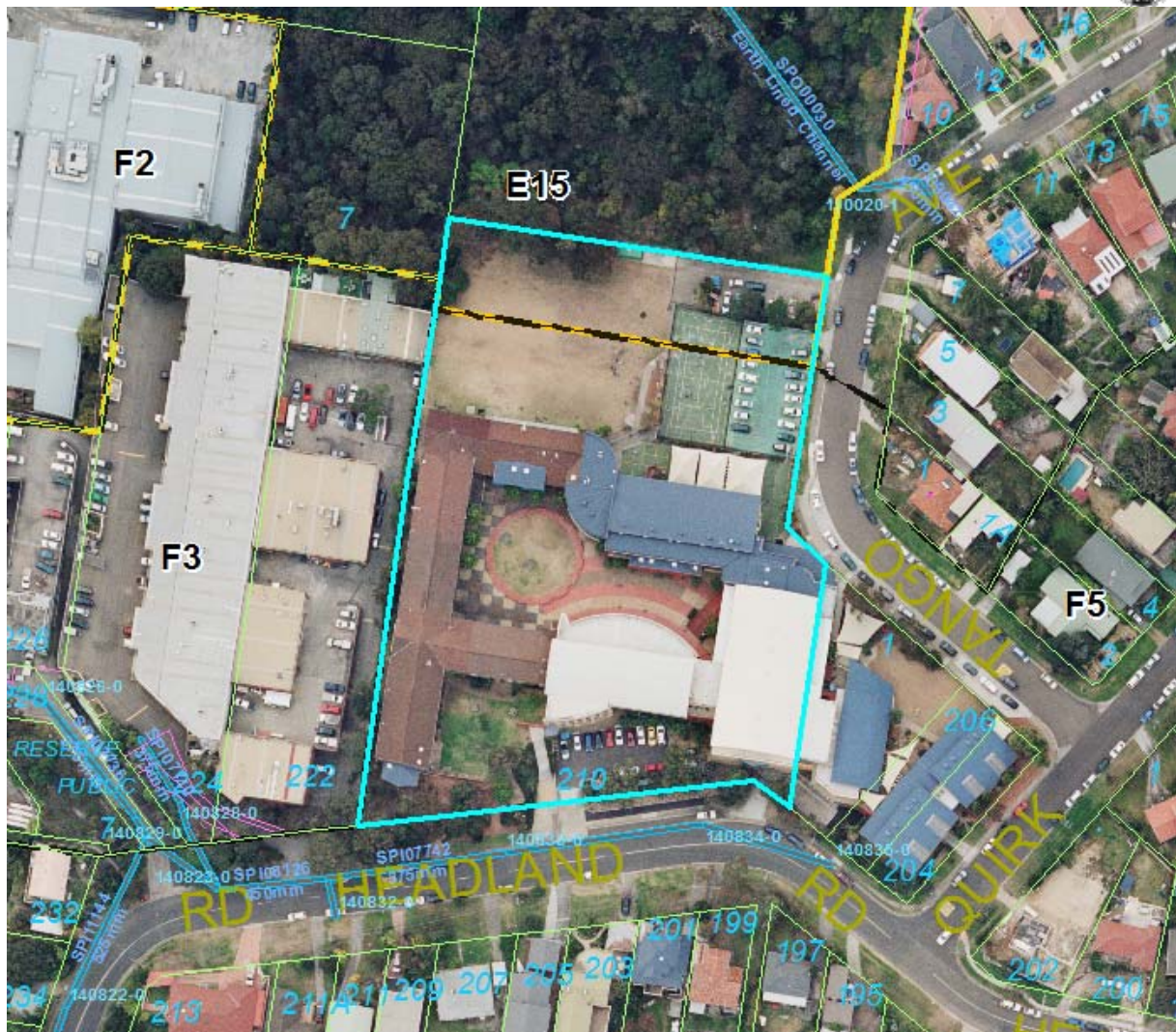
Assessment Report and Recommendation

Assessment Officer:	Nick England
Application Lodged:	4/04/2011
Plans Reference:	Plans prepared by Tonkin Zulaikha Greer Architects, numbered DA-002, DA-100, DA-102, DA-103, DA-200, DA-201, DA-202, DA-203, DA-204, DA-205, DA-206, DA-300, DA-301, DA-302, dated March 2011
Amended Plans:	NO
Owner:	St Lukes Anglican School Limited

Locality:	F5 Curl Curl and E15 Wingala Hill
Category:	Two (Primary schools; Further education; Development on public open space)
Draft WLEP 2009 Permissible or Prohibited Land use:	R2 Low Density Residential - Permissible
Variations to Controls (Cl.20/Cl.18(3)):	YES - Building Height
Referred to WDAP:	NO
Land and Environment Court Action:	NO

SUMMARY

Number of Submissions	Nil
Submission Issues:	N/A
Assessment Issues:	Non compliance with Building Height and no concurrence received from the Rural Fire Service
Recommendation	REFUSAL (based on no concurrence being received from the RFS)



Public Exhibition: The subject application was 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 46 adjoining land owners and occupiers for a period of 21 calendar days commencing on 16 April and being finalised on 10 May. Furthermore, the application is “Advertised development” was advertised within the Manly Daily on 16 April 2011 and a notice was placed upon the site.

SITE DESCRIPTION

The subject site is comprised of Lot 2112, DP 752038, Lot 1 DP 749109 and Lots 3 and 4, DP 8139 and is commonly known as No.210 Headland Road, Dee Why. The site has a total area of 1.52 hectares and has street frontages to Quirk Street, Tango Avenue and Headland Road. The site is in an elevated position, being located on a prominent ridge between Curl Curl and Dee Why and it has a minor slope falling to the south west.

The site is currently occupied by a primary and secondary school known as St Luke's Grammar, which comprises numerous buildings, associated car parking areas and open space located in central courtyards and a larger open area located near the northern boundary. The site is sparsely vegetated, with a small portion of native vegetation located on the northern boundary and mature trees adjacent to the car parking area also on the northern boundary.

Surrounding development presents a variety of land uses, to the north of the site is public open space (being the Stony Range Flora Reserve), to the west of the site are industrial and warehouse land uses accessed from Headland Road and to the south and east of the site is residential development consisting of detached-style dwellings located in Headland Road, Quirk Street and Tango Avenue.

SITE HISTORY

The site has an extensive site history in regard to development applications. The building which is the subject of the proposed development was originally erected as part of the then St Lukes' Church of England Girls School. No specific records exist in regard to the approval of this building, however it is estimated that the building was erected in the mid 1970's.

The most recent development consent which is relevant to the current proposal is as follows:

Development Application No.	Description	Determination and date
FG2010/0011	"Construction of new building consisting of two level basement car park, classrooms and playing courts - St Lukes Grammar School (IPA No.09/0174EI)"	14 January 2010

This consent was issued by the Federal Government under the *Nation Building & Jobs Plan (State Infrastructure Delivery) Act 2009*.

The other development consent relevant to the current proposal is:

Development Application No.	Description	Determination and date
DA2003/1728	"Upgrade of Junior School Entry Erection of a New Middle School & New Senior Common Room"	12 October 2004

Relevantly, Condition No.3 of consent No.2003/1728 states:

"3. Student Numbers

The number of students enrolled at the school is to be limited to a maximum of 884 at any time. The School should note that any proposal to increase student numbers in the future will not be approved without a corresponding increase in on site parking and pick up and set down capacity.

Reason: To ensure the development is not detrimental to the flow of traffic on adjacent roads and Safety."

There have not been any subsequent development consents or modifications of consent issued which have had the effect of modifying or superseding Condition 3 of DA 2003/1728, therefore the maximum number of students permitted at the school remains at 884 (despite the applicants statement that there is a maximum of 899 students currently approved).

PROPOSED DEVELOPMENT

The proposed development consists of internal alterations and external additions to the existing three (3) storey secondary pupils' building, which is located in the south-western corner of the subject site. The works as they apply to the particular "Wings" of the building are described below:

North Wing

- internal reconfiguration of all classrooms, staff and amenities rooms;
- demolition of existing staircase;
- replacement of all windows and associated external louvres;
- refurbishment of the utilities and services to all rooms;
- new ground floor awning on northern elevation;
- new roof; and
- external and internal painting and rendering.

West Wing

- internal reconfiguration of all classrooms, staff and amenities rooms;
- new external walkways and awning on eastern elevation;
- demolition of existing staircase and replacement with new staircase;
- replacement of all windows and associated external louvres;
- refurbishment of the utilities and services to all rooms;
- new roof; and
- external and internal painting and rendering.

South Wing

- internal reconfiguration of all classrooms, staff and amenities rooms;
- new 27m² deck attached to staff room on southern elevation;
- demolition of existing staircase and replacement with new staircase;
- replacement of all windows and associated external louvres;
- refurbishment of the utilities and services to all rooms;
- new roof; and
- external and internal painting and rendering.

Ancillary works as part of the proposal include the demolition of a pathway in the seniors courtyard adjacent the South and West Wings and the removal of seven (7) mature Cocos Palms, which are adjacent the proposed walkways and awnings.

In summary, the proposed works to the existing building consist of the following:

- A net increase of one (1) classroom, to a total of 21 secondary student classrooms, from the existing 20 classrooms;
- No increase in gross floor area, as the new walkways on the Upper Level 2 and 3 are not enclosed by external walls;
- An increase in the overall building height by 400mm; and
- A net increase in landscaped open space of 5m².

No increase in student numbers is proposed under this DA, however the Statement of Environmental Effects refers to an existing approved number of students of 899 which does not accord with Council's most recent approvals.

AMENDMENTS TO THE SUBJECT APPLICATION

No amended plans have been provided during the assessment of the application.

STATUTORY CONTROLS

- a) Environmental Planning and Assessment Act 1979;
- b) Rural Fires Act 1997;
- c) Environmental Planning and Assessment Regulations 2000;
- d) State Environmental Planning Policy No. 55 – Remediation of Land;
- e) State Environmental Planning Policy (Infrastructure) 2007;
- f) Warringah Local Environment Plan 2000;
- g) Draft Warringah Local Environment Plan 2009; and
- h) Warringah Development Control Plan.

PUBLIC EXHIBITION

The subject application was 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 46 adjoining land owners and occupiers for a period of 21 calendar days commencing on 16 April and being finalised on 10 May 2011. Furthermore, the application was advertised within the Manly Daily on 16 April 2011 and a notice was placed upon the site.

No submissions were received in response to the notification of the proposed development.

MEDIATION

No applications for mediation were received in relation to this application.

LAND AND ENVIRONMENT COURT ACTION

No appeal has been lodged with the NSW Land & Environment Court.

REFERRALS

External Referrals

Rural Fire Services
<p>The proposal is Integrated development under Section 91 of the Environmental Planning & Assessment Act 1979 as a Bushfire Safety Authority is required under Section 100B of the Rural Fires Act 1997 for any works to a school, which is a Special Fire Protection Purpose, with a bushfire prone area.</p> <p>The application was referred to the NSW Rural Fire Service (RFS) on 15 April 2011 and again on 22 June 2011. The application was referred the second time as the RFS advised that the application could not be supported as no <i>Bushfire Risk Assessment</i> report had been provided. However, on further examination of the DA documentation, the Bushfire Report was located and duly forwarded to the RFS.</p> <p>At the time of writing this report, due to the issue with the Bushfire Report, Council had not received a response from the RFS. Pursuant to Clause 62 of the Environmental Planning and Assessment Regulation 2000, the concurrence authority (the RFS) must provide Council with a response within 40 days of receipt of the 2nd referral and that time period had not elapsed at the time finalising this report.</p> <p>As Council has not received the approval from the RFS, the application cannot be recommended for approval, it being noted that there are no other planning issues with the DA.</p>

Ausgrid

The application was referred to Ausgrid (formerly Integral Energy) for comment and no objections were raised, subject to standard conditions. The conditions have been included in the draft set of conditions attached to this report should the JRPP be in a position to approve the application.

Internal Referrals

Development Engineering Section

Councils' Development Engineering Section has reviewed the proposed development and raised no objections, subject to conditions. The proposed conditions of consent have been included in the draft set of conditions attached to this report should the JRPP be in a position to approve the application.

Heritage Officer

Councils' Heritage Advisor has reviewed the application as the subject site is adjacent the Stoney Range Flora Reserve which is a listed item of heritage significance. The site is also adjacent to the Officeworks/Fitness First Building which is also a listed item of heritage significance.

The proposal was assessed against the Statement of Significance in the Warringah Heritage Inventory and the following comments and recommendation was provided:

"Consideration of the proposed development

The application proposes the alterations and additions to the existing school buildings to accommodate for the refurbishment of the senior school buildings.

The alterations and additions generally maintain the existing built form and visual relationship at the interface between the subject site and adjoining heritage items.

There will be no direct physical impact on the heritage fabric of either site, and the proposed works are located over existing areas of modified land. To this effect, there is no impact on the landscape curtilage of the Stoney Range Flora Reserve.

The alterations and additions will not visually dominate the adjoining heritage items and will not impact on the heritage significance embodied within the former Wormald Building and Stoney Range Flora Reserve.

Accordingly, no objection is raised to the proposed development on heritage grounds subject to the following condition:

Impact of development on adjoining heritage item

The storage of building materials, equipment and construction access is to be contained wholly within the subject site.

No materials or equipment shall be stored on, and no construction access obtained over, any part of the adjoining bushland vegetation of the Stoney Range Flora Reserve.

Reason: *To ensure the protection of adjoining heritage items.*

Comment: The proposed condition of consent has been included in the draft set of conditions attached to this report should the JRPP be in a position to approve the application.

Landscape Officer

Council's Landscape Officer was referred the application for comment, who advised that no objection was raised to the proposal, subject to a condition that two (2) replacement trees be provided on the grounds of the property. The conditions have been included in the draft set of conditions attached to this report should the JRPP be in a position to approve the application.

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	See discussion on “Environmental Planning Instruments” in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	See discussion on “Draft Environmental Planning Instruments” in this report.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal and the application was notified and advertised consistent with the provisions of Part 1 of this DCP.
Section 79C (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the regulations	<p>The EPA Regulations 2000 requires the consent authority to consider the provisions of the Building Code of Australia. This matter could be addressed via a condition of consent.</p> <p>Clause 92 of the EPA Regulations 2000 requires the consent authority to consider AS 2601 - 1991: <i>The Demolition of Structures</i>. This matter has could be addressed via a condition of consent.</p> <p>Clause 93 of the EPA Regulation 2000 requires the consent authority to consider the fire safety upgrade of development. This matter has could be addressed via a condition of consent.</p>
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. In summary, based on the planning assessment outlined in this report, the likely impacts of the proposed development are acceptable, notwithstanding the outstanding concurrence from the RFS.</p> <p>(ii) The proposed development will not have a detrimental social impact in the locality considering the existing character of the proposal, which is a primary and secondary school. The proposed works are relatively minor in scale and intensity and will retain the use of this land for a long established purpose and in its current manner/mode of operation.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the school based nature of the existing and proposed land use.</p>

Section 79C 'Matters for Consideration'	Comments
<p>Section 79C (1) (c) – the suitability of the site for the development</p>	<p>The site is not subject to any significant physical constraint or risk, with the exception of the land being situated within a bush fire prone area due to its proximity with the Stony Range Flora Reserve, which contains a significant amount of remnant bushland. The Bushfire Hazard Assessment Report lodged with the DA will not require Asset Protection Zones and hence additional clearing of vegetation.</p> <p>The proposed works are effectively a refurbishment of the existing secondary students building and in this regard will not result in any significant intensification of the existing land use. Under these circumstances, the site would normally be considered suitable for the proposed development.</p> <p>However, the proposed development requires concurrence from the RFS as the DA is an Integrated Development, and as this has not been granted to date, it cannot be properly determined that the impacts of the development are fully known and acceptable. Therefore, the suitability of the site for the proposed development cannot ultimately be determined in the absence of the approval from the RFS.</p>
<p>Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>See discussion on “Public Exhibition” in this report.</p>
<p>Section 79C (1) (e) – the public interest</p>	<p>As discussed in the “Referrals” section of this report, the RFS has not granted concurrence to the proposed development, which is required in under Section 91 of the EPA Act, 1979.</p> <p>The planning assessment has revealed that the proposed development has satisfactorily addressed the relevant planning controls and there are no planning issues that would warrant refusal of the application, except for the RFS issue.</p> <p>In this regard, in the absence of the approval from the RFS, a recommendation for approval of the DA would not be in the public interest and hence it is recommended that the application be refused solely on the lack of concurrence from the RFS.</p> <p>However, should the approval be forthcoming from the RFS prior to the JRPP meeting, it is considered that the public interest has been satisfactorily addressed and the application be approved. A draft set of recommended conditions (attached), which also address issues related to the public interest have been provided should this option be open to JRPP.</p>

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS:

Draft Warringah Local Environmental Plan 2009 (Draft WLEP 2009)

Definition: *Educational Establishments*

Land Use Zone: R2 Low Density Residential Zone

Permissible or Prohibited: Permissible

Additional Permitted used for particular land – Refer to Schedule 1: Not applicable

Applicable Principal Development Standards:

Development Standard	Required	Proposed	Complies	Clause 4.6 Exception to Development Standard
Height of Buildings:	8.5m	11.15m	NO	YES

Clause 4.6 Exception to Development Standard

Assessment of the Objectives of the R2 Low Density Residential Zone

An assessment of the variation to the building height standard in relation to the objectives of the R2 Low Density Residential zone is provided as follows:

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

Comment: The proposed variation relates to an existing non-residential development, being an “educational establishment”, hence, this objective is not strictly relevant. However, the modified building height subject to the proposed variation will not restrict the ability for housing needs to be provided on residential allotments in the locality.

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

Comment: The proposed works are to an “other” land use referred to in this objective, being an educational establishment which serves surrounding residential areas. The proposed variation to the building height is effectively for refurbishment purposes and amenity improvements to an existing building within St Luke’s Grammar School and is consistent with the objective of providing better facilities and services to meet the needs of local residents.

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

Comment: The proposed works will not result any significant increase in the existing building’s footprint nor result in any loss to existing areas of landscaped open space on the site, which is consistent with this objective.

Therefore, the proposed development satisfies the objectives of the R2 Low Density Residential zone. Accordingly, a variation to the building height development standard can be considered under Draft WLEP 2009.

Assessment against the Objectives for Height of Buildings

An assessment of the proposed development in relation to the relevant objectives of Clause 4.3 "Height of Buildings" in the R2 Low Density Residential zone under Draft WLEP 2009 is provided as follows:

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

Comment: The existing building is a 3 storey school building, which is already non-compliant with the building height standard. Adjacent this building to the west are industrial / warehouse buildings, of which the existing building is consistent in respect to being large, non-residential buildings. The nearest residential dwellings are the adjacent residential houses to the school in Headland Road. Whilst the proposed maximum height is not specifically consistent with these dwellings, the marginal increase in the height of the proposed building would have the effect of maintaining the status quo in respect to the existing scale of development on the subject site. Therefore, the proposed development is compatible with the height and scale of the existing development in the streetscape.

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

Comment: The minor increase in building height will not have an adverse impact in regard to visual amenity, view loss, overshadowing or the visual and acoustic privacy of adjoining residences.

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

Comment: The development is located on a prominent ridge in the Dee Why / Curl Curl locality, however the impact of this development on the scenic quality of Warringah is likely to be negligible given the minor increase in the height of the existing building.

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

Comment: As stated previously, the development is located on a prominent ridge, however the impact of this development when viewed from public places will be negligible given the minor increase in the height of the existing building.

Conclusion: Clause 4.6 Exception to Development Standard

The above assessment has determined that strict compliance with the 8.5m height development standard would be unnecessary and unreasonable under the circumstances as the proposal relates to a minor increase (400mm) to a building that is already non-compliant with the standard and the outcome is satisfactory. For the reasons given above, the variation to the Building Height in the R2 Low Density Residential zone as prescribed under the Draft WLEP 2009 is supported.

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 used for educational purposes 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 land use.

State Environmental Planning Policy - BASIX

A BASIX certificate is not required to be submitted with the subject application.

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.

Local Environment Plans (LEPs)

Warringah Local Environment Plan 2000 (WLEP 2000)

Desired Future Character (DFC)

The subject site is located partly in the F5 Curl Curl Locality and partly in the E15 Wingala Hill locality under Warringah Local Environment Plan 2000.

F5 - Curl Curl Locality

The Desired Future Character Statement for the F5 Curl Curl locality is as follows:

“The Curl Curl locality will remain characterised by detached style housing in landscaped settings interspersed by existing apartment style housing and a range of complementary and compatible uses. The land containing the existing Bowling Club at Lot 2682 DP 752038 on Abbott Road and the land containing the existing Harbord Bowling Club at Lot 4 DP 601758 on Stirgess Avenue will continue to be used only for recreation facilities.”

Future development will maintain the visual pattern and predominant scale of detached style housing in the locality. The streets are to be characterised by landscaped front gardens and front building setbacks which are consistent with surrounding development. The exposed natural sandstone rock outcrops throughout the locality will be maintained. Development on prominent hillsides or hilltops must be designed to integrate with the landscape, topography and long distance views of the hill. Unless exemptions are made to the housing density standard in this locality statement, any subdivision of land is to be consistent with the predominant pattern, size and configuration of existing allotments in the locality.

The locality will continue to be served by the existing local retail centres in the areas shown on the map. Future development in these centres will be in accordance with the general principles of development control provided in clause 39.”

E15 – Wingala Hill Locality

The Desired Future Character Statement for the E15 Wingala Hill locality is as follows:

“The Wingala Hill locality will remain characterised by detached style housing in landscaped settings interspersed by existing apartment style housing and a range of complementary and compatible uses.

Future development will relate to the predominant scale of existing detached style housing in the locality and the streets will be characterised by landscaped front gardens and buildings which address the street. The exposed natural sandstone rock outcrops throughout the locality are to be preserved where possible and development on prominent hillsides or hilltops must be designed to integrate with the landscape and topography and complement long distance views of the hill.

Unless exemptions are made to the housing density standard in this locality statement, any subdivision of land is to be consistent with the predominant pattern, size and configuration of existing allotments in the locality.”

Assessment against the DFC for the F5 Locality

The proposed works are situated in a building located completely within the F5 Curl Curl locality. The proposed development is defined as a “primary school” and “further education” under the WLEP 2000 dictionary. Both a “primary school” and “further education” are identified as Category 2 development in this locality.

Clause 12(3)(b) of WLEP 2000 requires the consent authority to be satisfied that the proposed development is consistent with the Locality’s DFC statement.

The proposed works are located completely within the F5 Curl Curl locality. Accordingly, an assessment of consistency of the proposed development against the relevant components of the locality’s DFC is provided hereunder:

“The Curl Curl locality will remain characterised by detached style housing in landscaped settings interspersed by existing apartment style housing and a range of complementary and compatible uses. The land containing the existing Bowling Club at Lot 2682 DP 752038 on Abbott Road and the land containing the existing Harbord Bowling Club at Lot 4 DP 601758 on Stirgess Avenue will continue to be used only for recreation facilities”

Comment: The proposed alterations and additions are to an existing school, which has occupied the site for a significant period of time, with the necessary approvals. At its current level of intensity and operation, the use is considered to be a complementary and compatible land use as defined by WLEP 2000.

The proposed works will have not have the effect on the intensity of the existing land use beyond its existing mode of operation, hence maintaining its continuation as a complementary and compatible land use. The proposed development is therefore consistent with this requirement of the DFC.

“Future development will maintain the visual pattern and predominant scale of detached style housing in the locality. The streets are to be characterised by landscaped front gardens and front building setbacks which are consistent with surrounding development. The exposed natural sandstone rock outcrops throughout the locality will be maintained. Development on prominent hillsides or hilltops must be designed to integrate with the landscape, topography and long distance views of the hill. Unless exemptions are made to the housing density standard in this locality statement, any subdivision of land is to be consistent with the predominant pattern, size and configuration of existing allotments in the locality.”

Comment: The existing buildings on the site can do not having a scale consistent with surrounding detached style housing, owing to the fact that it is an educational land use which has been approved under previous consents as such. A number of buildings on the site are 3 stories in height and have significant floor area, often exceeding 1,000m² of GFA per level. However, the site has a considerable area (1.5 hectares) and can accommodate larger-scale buildings in a way that does not negatively impact on the surrounding residential development.

The building which is the subject of the proposed works abuts an industrial development on the western boundary of the site and is predominately visible from Headland Road on the southern boundary of the site. As stated previously, the effect of the proposed alterations and additions is to increase the height of this existing building by a minor extent (approximately 400mm) to a maximum height of 11.15m.

Potentially visible from the Headland Road frontage is the new deck on the southern elevation of the South Wing building and the raised walkway on the eastern elevation of the West Wing building, however they are generally lightweight and transparent structures located at ground level and no higher than 3.2m. Their visual impact is also offset by the significant slope on the southern boundary, rising up from this boundary, further mitigating the visual impact. In consideration of the matters above, the effect of the works on the existing visual pattern and predominant scale of the locality will be negligible.

The site is located on a prominent ridge-top and is visible from the adjoining residential areas. However, the extent of the additional height is minor and it can be demonstrated that the proposed development is consistent with the existing landscape and topographical features and will not adversely affect any long-distance views of the hill from surrounding areas.

The proposal will retain the existing front setback and landscaped areas contained within the site on the Headland Road frontage and will not affect any existing sandstone rock outcrops.

Based on the assessment above, the proposed works are consistent with this specific requirement of the DFC.

Conclusions on DFC

Therefore, as detailed in the above assessment, the proposed development is consistent with the relevant requirements of the Locality's DFC statement.

Built Form Controls (Development Standards)

The following table outlines compliance with the Built Form Controls of the above locality statement. As the works are located completely within the F5 Curl Curl Locality, this part of the report details the extent of the proposal's compliance with the Built Form Controls that apply to this locality.

Compliance Table – F5 – Curl Curl Locality			
Built Form Standard	Required	Proposed	Compliance
Housing Density	1 dwelling per 450m ² of site area	Not applicable	Not applicable
Building Height	8.5m (maximum building height)	11.15m	No. See Clause 20 variation
	7.2m (natural ground level to upper ceiling)	10.95m	No. See Clause 20 variation
Front Building Setback	6.5m	6.1m to Headland Road (no change existing)	NO, however no change to existing extent of compliance
Rear Building Setback	6.0m	45m to rear setback to northern boundary (no change to existing)	NO, however no change to existing extent of compliance
Side Boundary Envelope	5m then 45° projecting plane	No breach of envelope	YES
Side Boundary Setbacks	900mm	3.0m (no change to existing)	YES
Landscaping	40% of site area or 6,272m ²	33% of site area or 5,042m ² (No change to existing provision of landscaped open space*)	NO, however no change to existing extent of compliance

(*) A net gain of 5m² of landscaped open space has been estimated as part of changes to the senior students' courtyard. See discussion in General Principles section of report.

The proposed development does not comply with the Locality's Building Height Control, accordingly, further assessment is provided against the provisions of Clause 20(1) hereunder.

Clause 20(1) stipulates:

“Notwithstanding clause 12 (2) (b), consent may be granted to proposed development even if the development does not comply with one or more development standards, provided the resulting development is consistent with the general principles of development control, the desired future character of the locality and any relevant State environmental planning policy.”

In determining whether the proposal qualifies for a variation under Clause 20(1) of WLEP 2000, consideration must be given to the following.

Please note that this assessment is subject to the bushfire assessment being satisfactory to the RFS and issue of its approval which do not alter the environmental impacts of the development.

(i) General Principles of Development Control

The proposal is generally consistent with the General Principles of Development Control and accordingly, qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1) (See discussion on “General Principles of Development Control” in this report for a detailed assessment of consistency).

(ii) Desired Future Character of the Locality

The proposal is consistent with the Locality's Desired Future Character Statement and accordingly, qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1) (See discussion on "Desired Future Character" in this report for a detailed assessment of consistency).

(iii) Relevant State Environmental Planning Policies

The proposal has been considered consistent with all applicable State Environmental Planning Policies. (Refer to earlier discussion under 'State Environmental Planning Policies'). Accordingly the proposal qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1).

Description of variations sought and reasons provided:

Building Height

Required: 8.5m

Proposed: 11.15m

Response: In assessing this non-compliant element of the proposal, it is necessary to consider the objectives of the Building Height Control. Accordingly, assessment against the following merit considerations is provided:

Ensure that development does not become visually dominant by virtue of its height and bulk

Comment: The maximum height of the proposed additions above natural ground level occurs on the North Wing and is estimated at 11.15m, which is in excess of the 8.5m maximum building height. As stated previously, the existing building has a maximum height of approximately 10.75m, therefore, the modified roof structure on all three wings represents a maximum total increase in height of approximately 400mm.

The increased height proposed to the existing building is unlikely to result in a development that is visually dominant, primarily based on the relatively minor amount of increased height. Other factors that would further mitigate visual dominance include:

- The location of the subject building "behind" adjacent buildings which front Tango Avenue and Quirk Street, effectively screening the building when the site is viewed from these frontages,
- The building's proximity to other industrial buildings to the west of the site, which are of a similar bulk and scale; and
- Maintenance of the existing front setback of the building from the boundary with Headland Road.

The proposed development is therefore consistent with this merit consideration.

Preserve the amenity of surrounding land

Comment: The building abuts industrial/warehouse premises on its western boundary, within the F3 Locality. The impact of the proposed works on these land uses is considered to be negligible.

The nearest residential development to the proposed works are the properties located on the southern side of Headland Road, which are adjacent the subject building. The southern elevation of the South Wing buildings will incorporate a new deck, which is setback a significant distance from the nearest residential dwelling (60m) and is unlikely to cause an adverse impact in regard to privacy.

The additional height is unlikely to cause impact in regard to additional overshadowing, given the minor increase in overall height of the building and the fact that the building footprint will not be enlarged.

The proposed development is consistent with this merit consideration.

Ensure that development responds to site topography and minimise excavation of the natural landform

Comment: The proposed building works will not require any significant excavation as the existing footprint and ground floor levels are being maintained. The proposed development is consistent with this merit consideration.

Provide sufficient roof pitch and variation in roof design rather than a flat roof

Comment: A pitched roof is intended to replace the existing pitched roof. The proposal is therefore consistent with this merit consideration.

Conclusion on Merit Assessment of Variation

As detailed above the proposed development is considered to satisfy the requirements to qualify for consideration under Clause 20(1), in addition the proposal is considered to be consistent with the underlying objectives of the Building Height Control. It is for these reasons that the variation to the Building Height Control (Development Standard) pursuant to Clause 20(1) is supported.

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	Yes	The proposed refurbishment will incorporate changes to the external fabric of the building, including: sun-shading devices over the replacement windows, rendering, awnings over the new walkways and a new roof. A condition of consent could be applied to ensure no illumination is provided on the building during evening periods.	Yes, subject to condition
CL39 Local retail centres	No	Not applicable	N/A
CL40 Housing for Older People and People with Disabilities	No	Not applicable	N/A
CL41 Brothels	No	Not applicable	N/A
CL42 Construction Sites	Yes	The site presents no particular constraint that would not allow a condition of consent to be applied to ensure that all building works cause no adverse amenity impact to adjoining properties.	Yes, subject to condition

General Principles	Applies	Comments	Complies
CL43 Noise	Yes	The proposed works relate to an existing school, which in its current manner of operation is unlikely to result in any noise emission which would be adverse to the amenity of adjoining land uses, specifically the residential development to the south and east of the site.	Yes, subject to condition
CL44 Pollutants	No	Not applicable	N/A
CL45 Hazardous Uses	No	Not applicable	N/A
CL46 Radiation Emission Levels	No	Not applicable	N/A
CL47 Flood Affected Land	No	Not applicable	N/A
CL48 Potentially Contaminated Land	Yes	The site has historically been used for educational purposes and there is no evidence to suggest that the site is contaminated.	Yes
CL49 Remediation of Contaminated Land	No	Not applicable	N/A
CL49a Acid Sulfate Soils	No	Not applicable	N/A
CL50 Safety & Security	Yes	The South Wing of the existing building will be modified to provide a deck on its southern elevation, overlooking the secondary students' courtyard and the frontage to Headland Road beyond. In this manner, the proposed works will improve that level of passive surveillance to the public domain and within the site.	Yes
CL51 Front Fences and Walls	No	Not applicable	N/A
CL52 Development Near Parks, Bushland Reserves & other public Open Spaces	Yes	<p>The site is adjacent the Stony Range Flora Reserve, abutting its northern boundary. The proposed works are located approximately 45m from this boundary.</p> <p>The northern elevation of the North Wing which faces the reserve will not be significantly changed / altered and the increased height of 400mm is likely to be imperceptible when the building is viewed from this area of public open space. The proposed building is considered to not adversely affect the landscape character of the reserve nor the public enjoyment derived from the land.</p>	Yes
CL53 Signs	No	Not applicable	N/A
CL54 Provision and Location of Utility Services	Yes	The site is adequately served by the relevant utility services.	Yes
CL55 Site Consolidation in 'Medium Density Areas'	No	Not applicable	N/A
CL56 Retaining Unique Environmental Features on Site	Yes	A small portion of bushland exists along the northern boundary of the site, however the proposed works are located at least 40m from this vegetation.	Yes
CL57 Development on Sloping Land	No	Not applicable	N/A

General Principles	Applies	Comments	Complies
CL58 Protection of Existing Flora	Yes	The development proposes the removal of five (5) mature Cocos Palm trees adjacent the existing building. Council's Landscape Officer has reviewed the proposal and raises no objection to the proposal subject to conditions of consent, requiring the provision of two (2) replacement trees.	Yes, subject to conditions
CL59 Koala Habitat Protection	No	The area of the site exceeds the 1 hectare threshold for development stated in this General Principle, however is not considered to be potential koala habitat given the lack of significant natural habitat or vegetation on the site.	N/A
CL60 Watercourses & Aquatic Habitats	No	Not applicable	N/A
CL61 Views	Yes	<p>Clause 61 stipulates 'Development is to allow for the reasonable sharing of views'.</p> <p>A review of the proposed development demonstrates that there is unlikely to be any loss of views currently enjoyed from the adjoining residential properties in Headland Road, Quirk Street and Tango Avenue. Similarly, the proposal is unlikely to adversely affect views currently enjoyed from public places.</p>	Yes
CL62 Access to sunlight	Yes	The proposed increase in building height of the proposed works is minor and unlikely to adversely affect the current level of solar access to adjoining residential properties, the nearest of which are located on the southern side of Headland Road.	Yes
CL63 Landscaped Open Space	Yes	<p>The proposed works will affect an area of landscaped open space over the senior students courtyard, which is located adjacent the southern boundary of the site.</p> <p>The proposed staff room deck on the South Wing building and the walkway adjacent the southern end of the West Wing building will affect approximately 28m² of existing landscaped open space. However, the removal of 33m² of existing path in this courtyard would have the effect of providing a net gain of 5m² of landscaped open space on the site.</p>	Yes
CL63A Rear Building Setback	Yes	The proposed works are setback approximately 45m from the northern (rear) boundary of the site.	Yes
CL64 Private open space	No	Not applicable	N/A
CL65 Privacy	Yes	The modified windows, openings, walkway and deck on the eastern and southern elevations of the existing building will achieve the minimum 9m separation from the nearest residential properties at Headland Road.	Yes
CL66 Building bulk	Yes	<p>The proposed development is considered against the following merit considerations, as discussed below:</p> <p><i>Side and rear setbacks are to be progressively increased as wall height increases</i></p> <p><u>Comment:</u> The proposed alterations and additions will increase the height of the building by 400mm, through the provision of a new roof, which will not increase the existing effective wall height. The wall on the western boundary, which is a dominant external wall of the</p>	Yes

General Principles	Applies	Comments	Complies
		<p>building, faces existing industrial and warehouse buildings on Headland Road. Hence, the existing side and rear setbacks are adequate to comply with this merit consideration.</p> <p><i>Large areas of continuous wall planes are to be avoided by varying building setbacks and using appropriate techniques to provide visual relief.</i></p> <p><u>Comment:</u> As stated previously, the application is for alterations and additions to an existing building with no effective increase in wall height. The wall on the western boundary, which is dominant external wall of the building, faces existing industrial and warehouse buildings on Headland Road. However, the refurbishment will provide a more contemporary visual appearance to the existing building. Based on the likelihood of the minor increase in height being imperceptible from the adjoining public domain, Hence the existing side and rear setbacks are adequate to comply with this merit consideration.</p>	
CL67 Roofs	Yes	The existing pitched roof is to be replaced with a similar pitched roof, which will compliment the local skyline. Notwithstanding the recommendation of refusal, the proposal is consistent with this General Principle.	Yes
CL68 Conservation of Energy and Water	Yes	BASIX certificates do not apply to such developments, however the Statement provided with the application states that energy and water saving features will be provided in the proposed refurbishment.	Yes
CL69 Accessibility – Public and Semi-Public Buildings	Yes	An Accessibility Report prepared by Accessibility Solutions, dated 14 March 2011 was provided with the application. A further prescribed condition of consent could be applied to ensure the development is consistent with the relevant access provisions of the Building Code of Australia prior to occupation of the amended building.	Yes, subject to condition
CL70 Site facilities	Yes	Existing site facilities are likely to be adequate to service the proposed development.	Yes
CL71 Parking facilities (visual impact)	No	Not applicable	N/A
CL72 Traffic access & safety	No	Not applicable	N/A
CL73 On-site Loading and Unloading	No	Not applicable	N/A
CL74 Provision of Carparking	Yes	<p>The car parking rates for “primary schools and further education” in Schedule 17 of the WLEP 2000 would require additional parking, if staff members were to be increased.</p> <p>However, the proposed application states that no additional staff or students will be part of the proposed use, despite one (1) additional classroom being provided in the proposed development.</p> <p>A condition of consent has been imposed on the draft set of conditions to restrict student numbers to the existing approved level under relevant consents.</p>	Yes, subject to condition
CL75 Design of Carparking Areas	No	Not applicable	N/A

General Principles	Applies	Comments	Complies
CL76 Management of Stormwater	Yes	Council's Development Engineering Section has reviewed the proposed works in regard to this matter and raises no objection, subject to the application of standard conditions of consent.	Yes, subject to condition
CL77 Landfill	Yes	The proposed works involve minimal landfill and excavation works. Conditions have been included in the draft set of conditions which address any fill material used to ensure it is clean and uncontaminated.	Yes, subject to condition
CL78 Erosion & Sedimentation	Yes	Appropriate conditions associated with management of erosion and sedimentation for the duration of works on the site have been imposed in the draft set of conditions.	Yes, subject to condition
CL79 Heritage Control	No	Not applicable	N/A
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service	No	Not applicable.	N/A
CL81 Notice to Heritage Council	No	Deleted	N/A
CL82 Development in the Vicinity of Heritage Items	Yes	The site is adjacent to two (2) items of environmental heritage, being: Stony Range Flora Reserve and the former Wormald Building at No.800 Pittwater Road (now occupied by Fitness First and Officeworks). Advice from Council's Heritage Advisor was that there was unlikely to be an adverse impact on these items of environmental heritage.	Yes, subject to condition
CL83 Development of Known or Potential Archaeological Sites	No	Not applicable.	Yes

SCHEDULES

Schedule 8 - Site analysis

Site Analysis	A site analysis plan (numbered DA-001) was provided with the application which satisfies this requirement.
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Schedule 17 - Carparking Provision

Carparking Provision	The "primary schools and further education" carparking requirements of Schedule 17 of the WLEP 2000 would require additional parking, if staff members are to be increased. However, the proposed application states that no additional staff or students will be part of the proposed use, however one (1) additional classroom would be provided in the proposed works. A condition of consent has been imposed in the draft set of recommended conditions to restrict the student numbers to the existing approved level.
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OTHER RELEVANT CLAUSES OF WLEP 2000

Clause 17 – How will the use if of public open space be controlled?

A portion of the land subject to the application is zoned as public open space. This area is located on the northern part of the site on allotment Lot 2112 in DP 752038, abutting the Stony Range Flora Reserve and extends outwards from this boundary for a width of 20m. However, as the proposed development is not located within or in close proximity to the public open space, this clause is considered not relevant to the assessment of this application.

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan

The proposal is subject to the application of Council's Section 94A Development Contributions Plan.

The following monetary contributions are applicable and a suitable condition is included in the draft set of recommended conditions:

Warringah Section 94A Development Contributions Plan		
Contribution based on total development cost of		\$ 7,904,600.00
Contribution - all parts Warringah	Levy Rate	Contribution Payable
Total S94A Levy	0.95%	75,093.70
S94A Planning and Administration	0.05%	3,952.30
Total	1.0%	\$79,046

CONCLUSION

The proposal has been considered against the relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, the provisions relevant Environmental Planning Instruments including Warringah Local Environment Plan 2000, Draft Warringah Local Environmental Plan 2009 and the relevant codes and policies of Council.

This assessment has taken into consideration the submitted plans, the Statement of Environmental Effects and all other documentation supporting the application. Given that the concurrence authority (Rural Fire Service) has not provided their approval (General Terms of Approval) at the time of writing this report, there is not the certainty that the proposal is acceptable in terms of its environmental impacts and the suitability of the site for the development.

Having said that, the planning assessment has revealed that there are no fundamental concerns with the proposal to the extent that it would have been recommended for approval if the concurrence from the RFS had been received.

The proposed works are to a land use that is considered to be a “complementary and compatible” land use, as defined under WLEP 2000. The proposed alterations and additions to the existing school building will not increase the scale and intensity of this existing use as school student numbers are not proposed to be increased and the physical works constitute a general refurbishment of existing buildings.

The proposed variation to the building height control is relatively minor and is unlikely to have an adverse impact on the amenity of adjoining residential properties or the visual impact of the development.

In relation to that part of the site which is affected by a Public Open Space designation on the WLEP 2000 Map, this is acknowledged that this is a mapping error which is intended to be corrected under Draft WLEP 2009, however more importantly it is noted that the building which is the subject of the development application is not located within the public open space area and so there are no planning implications of the mapping anomaly.

Therefore, whilst it is considered that the proposed development is generally satisfactory in relation to the planning merits of the application, the full extent of the environmental impacts of the proposed development and the suitability of the site for the proposed development cannot be fully determined in the absence of the approval of the RFS. Furthermore, Council is unfortunately not in a position to recommend approval as the mandatory approval from the RFS has not been provided. Consequently, the application is recommended for refusal.

Notwithstanding the above, should the RFS issue its General Terms of Approval prior to the JRPP meeting, the Panel would be in a position to approve the application. Therefore, a draft set of recommended conditions has been provided to assist the Panel in this regard.

RECOMMENDATION - REFUSAL

That the Joint Regional Planning Panel, as the relevant consent authority, refuse Development Consent to Development Application No. DA2011/0446 for alterations and additions to an existing primary school and further education building (St Luke's Grammar School) on land at Lot 2112, DP 752038, Lot 1, DP 749109 and Lots 3 and 4, DP 8139 No.210 Headland Road, Dee Why for the following reasons:

1. Pursuant to Section 91 of the Environmental Planning and Assessment Act 1979 and Section 100B of the Rural Fires Act 1997, no concurrence in the form of General Terms of Approval for a Bushfire Safety Authority have been provided by the NSW Rural Fire Service for the proposed development.
2. Pursuant to Section 79C(1) (b) (c) and (e) of the Environmental Planning and Assessment Act 1979, the environmental impacts of the proposed development, the suitability of the site for the proposed development and the public interest could not be fully and properly determined in the absence of the approval from the NSW Rural Fire Service.