

JOINT REGIONAL PLANNING PANEL
Sydney East Region

JRPP No	2014SYE148
DA Number	DA2014/1290
Local Government Area	Warringah LGA
Proposed Development	Demolition works and relocation of demountables and construction of new school buildings
Street Address	Lot 100 DP 1190199 , Oliver Street FRESHWATER NSW 2096
Applicant/Owner	Finance and Public Works
Owner	Department of Education (Harbord Public School)
Number of Submissions	17
Regional Development Criteria (Schedule 4 of the Act)	Development Application
List of all documents submitted with this report for panels consideration	<ul style="list-style-type: none"> • Assessment Report • Recommended conditions of consent • All documents including architectural plans and Statement of Environmental Effects submitted with the application • All other supporting documentation • Public submissions
Recommendation	Approval
Report by	Malcolm Ryan, Deputy General Manager Environment

ASSESSMENT REPORT AND RECOMMENDATION

Application Number:	DA2014/1290
Responsible Officer:	Luke Perry
Land to be developed (Address):	Lot 100 DP 1190199 , Oliver Street FRESHWATER NSW 2096
Proposed Development:	Demolition works and relocation of demountables and construction of new school buildings
Zoning:	LEP - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Warringah Council
Land and Environment Court Action:	No
Owner:	Department Of Education Harbord Public School
Applicant:	NSW Department Of Finance Public Works
Application lodged:	05/12/2014
Application Type:	Local
State Reporting Category:	Other
Estimated Cost of Works:	\$ 8,630,000
Notified:	09/01/2015 to 27/01/2015
Advertised:	10/01/2015
Submissions:	17
Submission Issues:	Traffic Impacts and Loss of car parking Privacy and Amenity Impacts
Assessment Issues:	<u>Warringah Local Environmental Plan 2011</u> <ul style="list-style-type: none"> • Clause 4.3 – Height of Buildings Development Standard (supported) <u>Warringah Development Control Plan</u> <ul style="list-style-type: none"> • Clause D8 – Privacy • Clause C3 – Parking Facilities
Recommendation:	Approval

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 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 provided by relevant Council / Government / Authority Officers on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 4.3 Height of buildings

Warringah Development Control Plan - C3 Parking Facilities

SITE DESCRIPTION

Property Description:	Lot 100 DP 1190199 , Oliver Street FRESHWATER NSW 2096
Detailed Site Description:	<p>The subject site consists of a single allotment located on the corner of Oliver Street and Wyadra Avenue, Freshwater. The site has three street frontages to Oliver Street, Wyadra Avenue and Corella Street.</p> <p>The site is irregular in shape with a frontage of 160m along Oliver Street, 167.5m along Wyadra Avenue and 60m along Corella Street. The site has a surveyed area of 26 750m².</p> <p>The site is located within the R2 Low Density Residential zone and is currently occupied by Harbord Public School which comprises multiple school buildings and demountable buildings.</p> <p>Surrounding development consists of a mix of single and two storey dwelling houses. A childcare centre is located to the west of the school which is approved for 86 children.</p> <p>Harbord Park is located approximately 70m to the west of the site along Wyadra Avenue.</p> <p>The subject site is identified as a listed item of local</p>

	<p>heritage significance under the provisions of Schedule 5 of the Warringah Local Environmental Plan 2011 being No. 177 "Harbord Public School".</p> <p>The site is generally flat without any topographical constraint.</p>
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Map:



SITE HISTORY

The site has historically been used for educational purposes as 'Harbord Public School'. The school was established in 1911 and was known as Freshwater Public School until 1928.

A larger school building was built in 1928 to meet the growing schooling demands of the community.

Council records indicate that the most recent development on the site occurred in 2009 as part of the Federal Governments 'Nation Building' scheme (Council record: FG2009/0009).

The works involved the construction of a two storey classroom building which connects to 'Building K'. The works also involved the construction of a new covered outdoor learning area (COLA) and the demolition and removal of some demountable buildings.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for the following:

Demolition and Landscaping Works

- Demolition of two (2) of the existing school buildings located along the Oliver Street frontage (Block A and Block B and C, currently used as the girls and boys toilets);
- Demolition of six (6) of the existing twelve (12) demountable buildings; and
- Landscaping works in place of the demolished demountable buildings.

New School Building

- Construction of a new three (3) storey school building comprising eighteen (18) homebases (classrooms); and a new library wing attached to the east; and
- Lift and stairwell access and accessible toiletry facility are provided on each floor of the building.

Relocation of Demountable Buildings

- Relocate six (6) demountable buildings to the north – eastern portion of the site, with three located adjacent the infant play area.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment A.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under 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	None applicable.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 79C (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 79C (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 of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p>

Section 79C 'Matters for Consideration'	Comments
	<p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 require the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of 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 matter has been 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 Warringah Development Control Plan section in this report and have been found to be acceptable subject to conditions.</p> <p>(ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal in its response to the growing demand for enrolment at the school.</p> <p>The improvement and investment in school facilities within the local area is considered to have a positive social impact on the locality.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 79C (1) (c) – the suitability of the site for the development	<p>The site is considered suitable for the proposed development based on the existing use of the site and that the continued use of the site as a school will act to serve the needs of the community.</p> <p>The site is easily accessed by public transport and school bus services and provides adequate and safe level of pedestrian and vehicular access for students and parents and staff.</p> <p>The site is relatively unconstrained in terms of the</p>

Section 79C 'Matters for Consideration'	Comments
	<p>topography or any other natural features.</p> <p>The application is supported by a Phase 1 Site Contamination Report which has indicated the presence of asbestos containing material on the site and potentially within the surface soil.</p> <p>The material is most likely present from poor demolition practices of old buildings on site, potentially residential dwellings buildings previously located on the site.</p> <p>The report concludes that the area of potential environmental concern within the site is the existing fill and the surface soil is potentially impacted by asbestos containing material debris.</p> <p>In this regard, the report provides recommendations and requirements in order to remove any contamination.</p> <p>Therefore, it is considered that the site is suitable for development subject to, further investigation of the surface soil, the removal of the identified asbestos containing material and after the preparation of an Environmental Site Management Plan that is to include a plan for the assessment and management of unexpected contamination during earthworks.</p> <p>Accordingly, a condition has been included in the recommendation of this report requiring compliance with the recommendations and requirements contained within the Stage 1 Site Contamination Assessment Report.</p> <p>Subject to the compliance with this condition and other conditions included in the recommendation of this report, the site is considered to be suitable for development.</p>
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Public Exhibition” in this report.
Section 79C (1) (e) – the public interest	The planning controls contained within the applicable planning controls of the Warringah Local Environmental Plan 2011 and the Warringah Development Control Plan provide the community with the a level of certainty as to the scale, form and desired elements of future

Section 79C 'Matters for Consideration'	Comments
	<p>development in the locality</p> <p>The continued use of the site as a school will act to serve the needs of the community. Any improvement or investments in the school facilities will significantly benefit the local area and the broader community.</p> <p>The new school building will allow the school to cater for the expected increase in demand for enrolment whilst ensuring the available outdoor play areas and landscape character of the site are not compromised.</p> <p>The assessment of the application has found that the development does not comply with the maximum height of buildings development standard of 8.5m as set out under Clause 4.3 of the Warringal Local Environmental Plan 2011.</p> <p>The proposed maximum height is 14.3m which exceeds the height limit by 5.8m, equating to a variation of 68.2%.</p> <p>The assessment of the variation proposed to the Height of Buildings Development standard does not result in any unreasonable amenity or visual impacts on the adjoining and neighbouring properties or public spaces and that compliance with the development standards, in this instance, is unnecessary and that there is sufficient environmental planning grounds to justify the contravention of the development standard.</p> <p>As such the variation is supported in this instance.</p> <p>Whilst it is acknowledged that the development will result in a loss of staff car parking and no provision has been made for car parking to be provided elsewhere on site, it is considered that there is sufficient on street car parking available within the neighbouring streets to accommodate the loss of staff car spaces without having a negligible impact on local roads.</p> <p>This matter is discussed in further detail throughout this report.</p> <p>For the reasons outlined above and throughout this</p>

Section 79C 'Matters for Consideration'	Comments
	report, the proposed development has been found to be in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and Warringah Development Control Plan.

As a result of the public exhibition process council is in receipt of 17 submission/s.

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

Traffic Impacts and loss of car parking

The following specific concerns have been raised:

- Loss of staff car parking;
- Pedestrian safety;
- Traffic congestion;
- Illegal parking;
- Safety concerns regarding the intersection of Oliver Street and Wyadra Avenue;
- Congestion on Corella Street;
- Request for an additional pick-up, drop-off area; and
- Deliveries of materials via Corella Street.

Comment:

These matters have been addressed in detail throughout this report (refer to the 'Referrals – Traffic Engineer' and Clause C3 – 'Parking Facilities' sections of this report).

In summary, it is considered that there is adequate on street car parking within 200m of the school to accommodate the shortfall of car parking.

The traffic and safety impacts of the proposal have been reviewed by Council's Traffic Engineer who raises no objections to the development subject to conditions which have been included in the recommendation of this report.

It is acknowledged that there are existing issues relating to illegal parking during morning and afternoon pick-up/drop-off peak periods. In this regard, it is recommended that a 'Traffic Safety Management Plan' be implemented.

In regards to the use of Corella Street as the street to be used for deliveries of materials, it is considered that Corella Street is a narrow width street and that deliveries via Corella Street would further impact to the residents along the street and creates further congestion.

As such, a condition has been included in the recommendation of this report requiring the preparation of a Construction Management Plan that includes a provision for all construction traffic during demolition, excavation and construction works to occur via Oliver Street.

Therefore, it is considered that these matters do not warrant refusal of the application.

Loss of Privacy and Amenity

Concern is raised in relation to the potential privacy and amenity impacts (noise) on adjoining properties as a result of the relocated demountable buildings.

Comment:

This matter is addressed in detail elsewhere within this report (refer to Clause D8 – Privacy under the WDCP section of this report).

In summary, the development, as conditioned, does not result in unreasonable privacy or amenity impacts on any adjoining or neighbouring properties.

Therefore, it is considered that these matters do not warrant refusal of the application.

MEDIATION

No requests for mediation have been made in relation to this application.

INTERNAL REFERRALS

Building Assessment - Fire and Disability Upgrades

The application was referred to Council's Building Certification team who raise no objections subject to the conditions included in the recommendation of this report.

Development Engineers

The application was referred to Council's Development Engineer who raised no objections subject to conditions included in the recommendation of this report.

Environmental Health and Protection (Contaminated Lands)

The application was referred to Council's Environmental Health and Protection team who have provided the following comments:

'The application has been assessed by Environmental Investigations.

The Stage 1 Preliminary Contamination Investigation report indicated that asbestos containing material was identified. A contamination management plan shall be prepared detailing how the recommendations outlined in the Stage 1 Preliminary Contamination Investigation report are to be implemented.

No further objections to the application subject to the conditions provided.'

Heritage Advisor

The application was referred to Council's Heritage Advisor who has provided the following comments:

'The subject site is zoned R2 Low Density Residential under Warringah Local Environmental Plan 2011. The subject site is identified as a listed item of local heritage significance under the provisions of Schedule 5 of the Warringah Local Environmental Plan 2011 being I77 "Harbord Public School" located at the corner Wyadra Road and Oliver Street, Freshwater.

Details of the listed item (subject site), as contained within the Warringah Heritage Inventory Database, are:

Statement of Significance:

"A representative example of an inter-war school building. Displays high integrity of fabric & use. Historically provides evidence of the early need for educational infrastructure to serve a permanent community. Mature pines are local landmarks."

Physical Description:

"Two storey brick building with extensive use of dichromatic (two-tone) brickwork. Hipped & gabled roof of corrugated iron. Timber multi-paned windows. Lattice vent to gable. Name and date of opening on front facade

The application is for the construction of a new school building, and associated landscaping works. The work includes the demolition of three buildings (Block A, B and C, being a classroom/resource building and two toilet blocks) as well as the removal of two demountable buildings.

Details of the proposal are outlined in the Statement of Environmental Effects (SEE) which accompanies the application, prepared by NSW Public Works Department, dated November 2014. The application is also accompanied by a Heritage Impact Assessment report prepared by Heritage Group – NSW Government Architect's Office, dated November 2014.

Kate Higgins, Heritage Consultant was engaged to provide heritage comment specifically on the DA as submitted. This advice was received on 31 December 2014. Ms Higgins advised that –

"the proposed design approach is considered acceptable because: it will clearly be a building of its time, as was the 1920 school, building; it is set away from the 1929 building, this separation reinforced by proposed new tree plantings which, together with the existing pine, will form a line between the proposed new building and the 1928 building; it continues the rectilinear pattern of development on the site; the wall plate height of the proposed new building is similar to that of 1928 building which will allow the 1928 building to remain the highest building on the site due to its pitched roof; and, the removal of the demountable classrooms from the front of the 1928 building will help to restore the visual prominence of the 1928 school building...A positive benefit of the proposal is the removal of two demountable classrooms from in front of the historic 1928 school building thereby reinstating views to the front of the building."

However, she was concerned with the proposed landscape design, or lack thereof, for the south-western corner of the site (in front of the 1928 building), and recommended that this be revised to ensure that the 1928 building is given appropriate visual prominence and ensure the lot boundary curtilage is clearly defined. Ms Higgins also raised a concern around

the fencing along the boundaries of the site, particularly the Oliver Street and Wyadra Avenue boundaries. It is not clear from the submitted plans whether the existing fence is to be retained, removed or replaced. Replacement with a more attractive and sympathetic fence is recommended. Reference was made historical photographs in the Warringah Library on-line collection which show a tall timber picket fence around the school.

In summary, Ms Higgins has no objection to the application on heritage grounds, subject to the imposition of the following condition of consent and a number of recommendations which it is advised be passed onto the applicant for consideration.

In conclusion, no objections are raised on heritage grounds, subject to the following condition of consent being imposed:-

Condition prior to Demolition

Photographic Heritage Record

A photographic heritage record of the site is to be prepared. Two (2) unbound copies of the record are required, one to be provided to Council and one to be lodged with Council's Local Studies Librarian. The photographic record can be made using film or digital technology and should include:

- a. Location of property, date of photos and author of photos; and*
- b. Photographs of the exterior of all buildings and structures to be demolished, from all angles, so as to demonstrate existing context.*

Reason: *To provide a photographic record of the history of the site for archival and future research purposes.'*

Comment:

No objections are raised to the proposed development subject to the imposition of the condition above which has been included in the recommendation of this report.

Traffic Engineer

The application was referred to Council's Traffic Engineer who provided the following comments:

'Parking

The proposed development will include the relocation of 22 on-site parking spaces to the surrounding street network, in addition to the staff parking that would currently occur on street if considered with the Warringah DCP. The traffic report provides that there is sufficient available on-street parking in the surrounding area. This would potentially impact on local residents.

Notwithstanding this, there is no objection to the proposed development on car parking grounds.

Traffic Impacts/Congestion

Traffic congestion around schools at start and finish times, and illegal parking and traffic manoeuvres is a common and ongoing problem. State Schools need to take more responsibility for the behaviour of parents with regard to parking and illegal vehicle

manoeuvres however, at the present time, this is not something that the state government schools are willing to accept.

I have reviewed the submissions that have been received on the proposed development.

A number of the submissions highlight the existing congestion, illegal parking and illegal vehicle manoeuvres in Corella Avenue. This is due to the narrow road pavement in the street (approximately 6.5m) and the parking restrictions that are in place along the frontage of the reserve and in front of the school. The feedback from residents is that this is already happening. There were also a number of submissions which highlighted the existing congestion around the school generally at school start and finish times. As indicated above, this is an issue for all schools.

A number of submissions requested the provision of an internal school pick up/drop off area. It already appears that space within the site is constrained with the new development, the number of demountables located around the school and the need to provide for playground areas so it would not be expected that this could be achieved for the current student numbers and development.

The car park within the school appears to be closed off already, and teachers are parking in Oliver Street along the frontage of the school, down to the intersection with Robert Street. A further review of the plans provided indicates that not all of the existing car park is required for the construction of the proposed building. It is considered that 12-15 parking spaces within the car park could be retained on completion of the building works, with modifications to the driveway and footpath crossing to provide for two way traffic, and some of the proposed tree plantings.

In addition, the school should provide a parking management plan on how to address the reduction in on-site parking and the management of the peak traffic generating times for the school. This plan should incorporate identification of drop off areas taking in to account that some of the existing drop off/pick up areas will be occupied by teachers and other staff vehicles.

Notwithstanding the above, there is no objection to the proposed development on traffic grounds.'

Comment:

The proposal is supported on traffic and car parking grounds. No objections are raised subject to a condition which has been included in the recommendation of this report requiring the preparation of a Parking Management Plan by the school that identifies management strategies for the loss of car parking and management of peak traffic generating times for the school.

The plan is to include strategies to educate parents on safe pick up and drop off of students and information on pick up and drop off points.

The comments made in relation to the number of spaces required for the construction of the proposed building are not relevant as the application does not seek to retain any of these car spaces and as mentioned would require substantial works beyond those sought consent for.

These issues have been discussed in detail later within this report (refer to Clause C2 – Traffic, Access and Safety and Clause C3 – Parking Facilities under the WDCP section of this report).

Landscape Officer

The application was referred to Council's Landscape Officer who raises no objections subject to the conditions included in the recommendation of this report.

EXTERNAL REFERRALS

Ausgrid (SEPP Infrastructure)

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.

NSW Roads and Maritime Services (SEPP Infrastructure)

The application was referred to the RMS who provided the following comments:

'Reference is made to Council's email dated 15 December 2014, regarding the abovementioned Application which was referred to Roads and Maritime Services (Roads and Maritime) for comment in accordance with Schedule 3 of the State Environmental Planning Policy (Infrastructure) 2007.

Roads and Maritime has reviewed the submitted documentation and raise no objection to the Application. Roads and Maritime has the following comments for Council's consideration in the determination of the application:

- 1. The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1- 2004 and AS 2890.2 - 2002 for heavy vehicle usage.*
- 2. All works/regulatory signposting associated with the proposed development are to be at no cost to Roads and Maritime.'*

Comment:

It is considered that no objections are raised by the RMS and the recommendations made above have been included as a condition of consent in the recommendation of this report.

NSW Police

The application was referred to the New South Wales Police (NSWP) for comment.

The NSWP have assessed the application and have advised that a Crime Prevention Through Environmental Design Assessment is not required for the development.

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 55 - Remediation of Land

The application is supported by a Stage 1 Preliminary Contamination Investigation Report that indicated asbestos containing material was present on the site.

The report provides recommendations and requirements to be complied with to ensure the site is suitable for the future school development.

Council's Environmental Investigations team have reviewed the proposal and the submitted report and raise no objections to the development subject to appropriate conditions of consent and subject to the compliance with the recommendations and requirements contained within the Stage 1 report.

In this regard, The JRPP being the consent authority for the proposed development can be satisfied that the site will be suitable for the proposed use following remediation works outlined above, as required by Clause 7 of SEPP 55.

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.

Warringah Local Environment 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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Minimum subdivision lot size:	N/A	N/A	N/A	N/A
Height of Buildings:	8.5m	14.3m	63.2%	No (See discussion Clause 4.6 of the WLEP section of this report)
Rural Subdivision:	N/A	N/A	N/A	N/A
No Strata Plan or Community Title Subdivisions in certain rural and environmental zones:	N/A	N/A	N/A	N/A

Compliance Assessment

Clause	Compliance with Requirements
<u>2.7 Demolition requires consent</u>	Yes
<u>4.3 Height of buildings</u>	No (see detail under Clause 4.6 below)
<u>4.6 Exceptions to development standards</u>	Yes
<u>5.9 Preservation of trees or vegetation</u>	Yes
<u>5.10 Heritage conservation</u>	Yes
<u>6.2 Earthworks</u>	Yes
<u>6.4 Development on sloping land</u>	Yes
<u>Schedule 5 Environmental heritage</u>	Yes

Zoning

Zone R2 Low Density Residential

Proposed Use	Permitted or Prohibited
Educational Establishment	Permitted with consent

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

Comment:

The proposed development involves the alterations and additions to an existing educational establishment as such this objective does not strictly apply to the development.

An educational establishment is a permitted use within the zone and the proposal will support the needs of the community in providing improvements to the school to cater for the growing needs of the community.

It is considered that the development satisfies this objective.

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

Comment:

The proposal involves alterations and additions to an existing educational establishment (Harbord Public School), which provides for facilities and services that meet the day to day to needs of residents within the locality.

The proposed works represent a significant investment and improvement in school facilities resulting from an increased demand for enrolment at the school.

Therefore, the development will allow the school to meet the day to day needs of residents into the future.

It is considered that the development satisfies this objective.

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

Comment:

The development is proposed to be constructed over existing areas of hardstand surfaces or where demountable buildings are currently occupied. The proposal includes substantial landscaping works to provide additional and rationalised landscape areas for the use of students.

The proposal does not impact upon any of the existing mature trees located along the western boundary (Oliver Street).

These mature trees will act to provide a landscape buffer and screening of the new building from the street and adjoining residential properties to the west and will ensure a landscape setting is maintained.

Conclusion:

For the reasons outlined above, it is considered that the development is consistent with the objectives of the zone.

Detailed Assessment

4.6 Exceptions to development standards

The following assessment of the variation to Clause 4.3 – Height of Buildings development standard and is assessed taking into consideration the questions established in Winten Property Group Limited v North Sydney Council (2001) NSW LEC 46.

Requirement:	8.5m
Proposed:	14.3m
Is the planning control in question a development standard?	YES
Is the non-compliance with to the clause requirement a Numerical and / or Performance based variation?	Numerical
If numerical enter a % variation to requirement	63.2%

The proposal must satisfy the objectives of Clause 4.3 – Height of Buildings, the underlying objectives of the particular zone, and the objectives of Clause 4.6 - Exceptions to Development Standards under the WLEP 2011. The assessment is detailed as follows:

Is the planning control in question a development standard?

The prescribed Height of buildings limitation pursuant to Clause 4.3 of the WLEP 2011 is a development standard.

What are the underlying objectives of the 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 site is located within a well-established low density residential area where the predominant land use is residential. As such, the predominant scale and height of development in the surrounding and nearby area is reflective of low density residential development in the form of single and two storey dwelling houses with a maximum height of 8.5m.

The proposal involves alterations and additions to an existing educational establishment which, by definition, does not serve a residential purpose and therefore it is accepted that educational establishments will be somewhat different in scale, height and visual appearance from that of development envisaged for a low density residential zone.

The proposed height and scale of the new building is considered to be an improved outcome for the school site as it will result in a number of existing demountable buildings being removed from the site, allowing more landscaping and open space areas to be provided.

The building articulation effectively breaks up the building mass and when combined with the effective use of a range of materials and finishes that are sympathetic to the area in particular along the street facing (Oliver Street) relate ensure the development relates favourably to the scale and height of surrounding and nearby development.

It is considered that the development satisfies this objective.

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

Comment:

The proposed height of the new school building will not result in an unreasonable visual impact, disruption of views, loss of privacy or loss of solar access.

The building will have a modern appearance through the articulation of the built form including stepping of the upper floors, use of pop up roof elements and through the provision of materials and finishes that are sympathetic with and compliment the local area to ensure the visual impact is minimised.

The new building is located along the Oliver Street frontage where residential properties are located on the western side of Oliver Street adjacent to the school. The separation achieved by the setbacks of the building to the western boundary, road reserve and existing mature trees located along the western boundary of the site adequately minimises the impact on privacy and solar access to neighbouring residential properties.

The proposed development satisfies this objective.

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

Comment:

The non-compliance with the standard will not result in any adverse impact on the scenic quality of Warringah's coastal and bush environments.

The proposed development satisfies this objective.

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

Comment:

As discussed within the previous objectives, the separation achieved by the setbacks of the building to the western boundary, road reserve and screening from the existing mature trees located along the western boundary of the site adequately minimises the visual impact of the new building when viewed from public spaces.

The proposed development satisfies this objective.

What are the underlying objectives of the zone?

In assessing the developments the non-compliance, consideration must be given to its consistency with the underlying objectives of the R2 Low Density Residential zone.

An assessment of the proposed development against the objectives of the R2 Low Density Residential zone has been provided earlier within this report (refer to Zone R2 Low Density Residential' under the WLEP 2011 section of this report.

In summary, it is considered that the proposed development is consistent with the zone objectives.

Is the variation to the development standard consistent with the objectives of Clause 4.6 of the WLEP 2011?

(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.

Comment:

The height variation relates to the proposed new school building. The Department of Education has indicated the need for the school to grow to accommodate the demand for schooling in the local area.

In this regard, some flexibility in applying the Height of Buildings Development Standard is sought to allow a new and larger building to be provided on site replacing existing buildings and a number of demountable buildings.

Therefore, it is considered that the degree of flexibility in applying the Development Standard is appropriate in this instance.

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

Comment:

The new building will replace a number of existing demountable buildings located on site to cater for the amount of students currently enrolled at the school.

Given the amount of demountables currently located on site to meet the schooling demands and the topography of the site, the open space areas have been significantly diminished and would be further diminished by simply providing additional demountables or multiple buildings of a smaller scale to meet the enrolment demand.

Six (6) of the existing demountable buildings will be demolished upon completion of the new building providing increased open space areas for the use of students.

Further, a number of existing buildings located on site exceed the maximum height requirement for the site and the proposed building sits below the maximum height of 'Building A' (heritage item) to the east.

In this regard, the proposed variation achieves a better outcome for and from the development and does not result in any adverse impact on surrounding or nearby land. Therefore the variation is supported.

(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.

(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.

Comment:

The applicant has submitted a written request seeking to vary the development standard that addresses each of the points raised within subclause (3).

Given, the non-compliance with the Height of Buildings Standard does not result contribute to any inconsistencies with the relevant planning controls, the variation is supported.

(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

Comment:

The applicant has provided a written request prepared by NSW Department of Public Works, which adequately addresses the matters required to be demonstrated by subclause (3).

(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:

For reasons detailed above, the proposal is considered to be consistent with the objectives of the R2 Low Density Residential zone in the WLEP 2011 and is in the public interest.

(b) The concurrence of the Director-General has been obtained

Comment:

Planning Circular PS 08-003 dated 9 May 2008, as issued by the NSW Department of Planning, advises that the concurrence of the Director-General 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 Director-General for the variation to the Height of buildings Development Standard.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	13.4m	86.1%	No
B3 Side Boundary Envelope	4m	Within envelope.	N/A	Yes
B5 Side Boundary Setbacks	North: 0.9m	2.61m to 74.9m	N/A	Yes
	East: 0.9m	1.57m	N/A	Yes
B7 Front Boundary Setbacks	Primary Street frontage (Oliver Street) - 6.5m	7.49m	N/A	Yes
	Secondary Street Frontage (Wyadra Avenue) – 3.5m	32.17m	N/A	Yes
B9 Rear Boundary Setbacks	6m	N/A- Corner allotment.	N/A	N/A
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	41% (10 969 sqm)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
<u>B3 Side Boundary Envelope</u>	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
<u>B5 Side Boundary Setbacks</u>	Yes	Yes
<u>Side Setbacks - R2</u>	Yes	Yes
<u>B7 Front Boundary Setbacks</u>	Yes	Yes
<u>R2 - All other land in R2 Zone</u>	Yes	Yes
<u>Front Boundary Exceptions - R2</u>	Yes	Yes
<u>B9 Rear Boundary Setbacks</u>	N/A	N/A
<u>Rear Boundary Exceptions on Corner Allotments - R2</u>	Yes	Yes
<u>C2 Traffic, Access and Safety</u>	Yes	Yes
<u>C3 Parking Facilities</u>	No	Yes
<u>C4 Stormwater</u>	Yes	Yes
<u>C5 Erosion and Sedimentation</u>	Yes	Yes
<u>C6 Building over or adjacent to Constructed Council Drainage Easements</u>	Yes	Yes
<u>C7 Excavation and Landfill</u>	Yes	Yes
<u>C8 Demolition and Construction</u>	Yes	Yes
<u>C9 Waste Management</u>	Yes	Yes
<u>D1 Landscaped Open Space and Bushland Setting</u>	Yes	Yes
<u>D2 Private Open Space</u>	Yes	Yes
<u>D3 Noise</u>	Yes	Yes
<u>D6 Access to Sunlight</u>	Yes	Yes
<u>D7 Views</u>	Yes	Yes
<u>D8 Privacy</u>	Yes	Yes
<u>D9 Building Bulk</u>	Yes	Yes
<u>D10 Building Colours and Materials</u>	Yes	Yes
<u>D11 Roofs</u>	Yes	Yes
<u>D12 Glare and Reflection</u>	Yes	Yes
<u>D14 Site Facilities</u>	Yes	Yes
<u>D18 Accessibility</u>	Yes	Yes
<u>D20 Safety and Security</u>	Yes	Yes
<u>D21 Provision and Location of Utility Services</u>	Yes	Yes
<u>D22 Conservation of Energy and Water</u>	Yes	Yes
<u>E1 Private Property Tree Management</u>	Yes	Yes
<u>E2 Prescribed Vegetation</u>	Yes	Yes
<u>E5 Native Vegetation</u>	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
<u>E6 Retaining unique environmental features</u>	Yes	Yes
<u>E10 Landslip Risk</u>	Yes	Yes

Detailed Assessment

B1 Wall Heights

Description of non-compliance

The control requires a maximum wall height of 7.2m. The proposed development provides a maximum wall height of

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 proposed development will have a minimal visual impact when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.

Notwithstanding the technical non-compliance with the control, the variation is consistent with other buildings located on the site and does not result in any visual impact.

The new building is well articulated which, combined with the use of materials and finishes sympathetic to the area, effectively reduces the visual bulk and scale of the development.

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

Comment:

The existing significant tree canopy located along the eastern boundary (Oliver Street) is to be maintained which in addition to the setbacks provided to the boundaries of the site, will ensure the proposed development maintains a human scale.

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

Comment:

The non-compliance does not result in the disruption or loss of any views and as such the development provides a reasonable sharing of views to and from public and private properties.

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

Comment:

The proposed development allows for a reasonable level of amenity, solar access and privacy to be maintained for adjoining and nearby dwellings.

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

Comment:

The proposed development responds to the sites topography. Whilst there is cut and fill proposed, the building is progressively stepped and articulated as the site falls to the rear. The level of cut does not significantly change the existing topography of the site and will allow the bulk and scale of the building to be minimised.

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

Comment:

The proposed roof design is innovative in its design and pitch. The proposal provides a mix of flat and low pitch skillion roof forms. This allows for well-articulated roof forms which negate further view, bulk and scale impacts on adjoining dwellings and provides an overall building height that is compliant. The flat roof is reflective of contemporary and modern architecture.

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 s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

C3 Parking Facilities

The new school building will occupy an area currently used for staff car parking. The area provides a total of 22 car spaces.

The following table illustrates the car parking requirements based on the existing situation and the proposed development having regard to the car parking rates specified under Appendix 1 – Car Parking Requirements of the WDCP:

Use	Appendix 1 Calculation	Required	Provided	Difference (+/-)
Educational Establishment	1 space per staff member	-	-	-

Existing	70 staff members	70 spaces	43 spaces	- 27 spaces
Proposed	71 staff members	71 spaces	21 spaces	- 50 spaces
Total	1 x 71 staff members	71 spaces	21 spaces	Net loss of - 23 spaces (loss of 22 spaces plus an additional 1 space required as a result of 1 additional staff member)

The table illustrates that there is an existing shortfall of 27 car spaces and that the proposed development will result in a shortfall of 50 spaces.

Given the existing site does not cater for the required car parking and has a shortfall of 27 spaces, this assessment has considered the net loss and shortfall as a total of 23 spaces rather than a total shortfall of 50 spaces.

The site is constrained in terms of its ability to provide areas of car parking given the location of existing on site buildings and areas of outdoor landscaped playground areas.

The new school building will be built over an existing bitumen area of the site that currently provides 22 parking spaces for staff. These spaces will be demolished and are not proposed to be relocated elsewhere on the site.

The applicant has indicated that the Department of Education and Communities have advised that is no longer a departmental policy to provide staff car parking on any school site and that any new staff car parking area required to be provided on the site would significantly reduce the outdoor playground areas and would make the development financially unviable.

The DCP requires 1 space to be provided per staff member. Given the above, there is a direct conflict between the DCP requirements and the Department's clear intentions relating to staff car parking which is beyond Council's control.

Notwithstanding the net loss of staff car parking, the development represents a significant improvement in the school facilities by providing a new school building that will not only cater for the growing demand for enrolment at the school but also result in a number of demountable buildings being removed from the site providing additional outdoor playground areas for students and improved circulation through the school grounds.

The application is supported by a Traffic and Parking report prepared by McLaren Traffic Engineering. The report provides data of the availability of on street car parking in the surrounding streets during the peak traffic and parking school hours, 7.30 am –to 9.30am and 2.00pm to 4.00pm.

The survey indicated that there are 376 on street car spaces within 200m of the site of which 337 spaces are unrestricted (i.e. not time limits). The report provides the following survey results during the peak school hours:

'During the surveys, the peak occupation was 182 and 186 cars at 9:00am and 3:15 respectively. As a result, worst case is 55% of the unrestricted parking is occupied (186/337 = 55%).

Therefore, the shortfall of 23 staff car parking spaces will result in an increase from 55% occupied to 62%. This increase is considered to be minor in that there is likely to be 128, or 38%, of unrestricted parking available.'

In view of the above, the report concludes that there is adequate on street car parking available to cater for the additional 23 required staff car spaces.

The development and accompanying Traffic and Parking Report have been reviewed by Council's Traffic Engineer who raised no objections to the loss of car parking considering the availability of on street car parking as illustrated above.

In this regard, it is considered that there is adequate on street car parking in surrounding streets to cater for the shortfall of car parking. The development will significantly benefit the broader community and will serve the needs of the community into the future and is supported in this instance.

D8 Privacy

The proposal involves the relocation of three (3) demountable buildings to the north and north eastern corner of the school site.

The demountable are proposed to be setback 1.574m from the rear boundary of No. 10a Corella Street and 2.675m from the southern side boundary of No. 12 Corella Street.

A site inspection reveals that there are existing mature trees located along the boundary shared between the school and No. 12 Corella Street to mitigate any potential privacy or amenity impacts. Concern has been raised by the owners of No. 10a Corella Street in relation to potential privacy and amenity impacts as a result of the relocated demountables 1.574m of the rear boundary of No. 10a Corella Street.

A site inspection reveals that the planting provided along the boundary is sporadic and provides little screening of the school grounds. The location of demountable buildings in this location has the potential for unreasonable privacy or amenity impacts on No. 10a Corella Street.

In this regard and in order to ensure adequate privacy and amenity is maintained to the adjoining property, a condition has been included in the recommendation of this report requiring screen planting be provided along the north-eastern boundary of the subject site adjacent to No. 10a Corella Street.

The plants should be a suitable lilly pilly species or suitable native species at 1.5m spacing's and a minimum size of 25 litres.

In response to the concerns raised in relation to noise impacts, the school is well established within the local area and has been for a significant period of time. It is a reasonable

expectation that some level of noise will be experienced when outdoor play areas are being utilised by students during the school hours.

In this regard, it is considered the relocation of demountable buildings in the north eastern corner of the site will be consistent with the acoustic impact currently experienced and would not further exacerbate that impact so far as to warrant refusal or amendment of the application.

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

Warringah Section 94A Development Contribution Plan

Part 2 - Section 6 Development to which this plan applies of the Warringah Section 94A Development Contributions Plan 2014 states that:

"Development that satisfies any one (or more) of the following criteria are exempt from this Plan and from payment of the s94A levy:

(1) Development applications and complying development applications whose total development cost is less than \$100,001;

(2) Applications lodged under Section 96 of the EP&A Act 1979 to modify condition/s of an existing consent;

(3) Development applications and complying development applications for public purposes as proposed by:

a) Council, that involve the use of land classified as Community or Operational under the Local Government Act 1993 or as Crown Land under the Crown Lands Act 1989;

b) Government agencies;

c) Public utility providers."

Therefore, no section 94A levy is to be applied to the development as it is for public purposes and proposed by the Department of Finance and Public Works.

CONCLUSION

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

and Assessment Act 1979; the provisions of the relevant Environmental Planning Instruments, including the Warringah Local Environment Plan 2011, the Warringah Development Control Plan; and the relevant Codes and Policies of Council.

In summary, the assessment of the Development Application found that:

Submissions

The application was notified to adjoining and nearby landowners and occupiers and attracted 17 submissions in objection. The submissions raised the following issues:

- Traffic Impacts
- Loss of Car parking
- Privacy and Amenity Impacts

All issues have been addressed in this report (refer to 'Notifications and submissions Received') and were found not to warrant refusal of the application.

Referrals

All recommendations and matters for consideration pertaining to the Development Application raised by external and internal referral bodies have been included in the recommendation of this report.

Environmental Planning Instruments

The development has been found to be consistent, with the Matters for Consideration under Section 79C of the Environmental Planning and Assessment

The development has been found to be consistent with the various provisions of the following Environmental Planning Instruments:

- State Environmental Planning Policy No. 55 – Remediation of Land;
- State Environmental Planning Policy (Infrastructure) 2007

WLEP Zoning Requirements and Permissibility

The development has been found to be permissible and consistent with the objectives of the R2 Low Density Residential zone.

WLEP Development Standards

The development has been found to not comply with the numerical Height of Buildings Development Standard contained in the WLEP 2011.

Notwithstanding, the development has been found to be consistent with the qualitative objectives of the Standard and the zone and is therefore supported.

WDCP Controls

The development, as conditioned, has been found to be consistent with the relevant controls contained within the WDCP.

Appendices

The development has been assessed and found to be non - compliant with the requirements of 'Appendix 1 - Car Parking Requirements (as detailed under Clause C3 – 'Parking Facilities' section of the report).

Notwithstanding, there is adequate on street car parking available within 200m of the site to accommodate the required staff car parking and the development is therefore supported in this instance.

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

Accordingly, it is recommended that the Development Application should be approved for the reasons detailed within this report and subject to the conditions included in the recommendation of this report.

RECOMMENDATION

THAT Sydney East Joint Regional Planning Panel as the consent authority grant Development Consent to DA2014/1290 for Demolition works and relocation of demountables and construction of new school buildings on land at Lot 100 DP 1190199, Oliver Street, FRESHWATER, subject to the recommended conditions of consent.