

COUNCIL ASSESSMENT REPORT

Panel Reference	2016SYE128
DA Number	DA201600585
LGA	Inner West Council
Proposed Development	To adapt and refurbish the existing Petersham TAFE site to accommodate the Open High School including minor internal refurbishment of existing Blocks A, B, C, D and E to suit the school use as well as associated new signage, security fence and solar panels
Street Address	West Street, Petersham
Applicant/Owner	NSW Department of Education
Date of DA lodgement	14 November 2016
Number of Submissions	1 (withdrawn on 15 April 2017)
Recommendation	Approval, subject to conditions
Regional Development Criteria (Schedule 4A of the EP&A Act)	5. Crown development with a capital investment value over \$5 million The proposal has a capital investment value (CIV) of \$11.4 million and is considered to be 'Crown Development' pursuant to Schedule 4A(5) of the Act. Given this, the application has been referred to the JRPP to exercise its consent authority functions.
List of all relevant s79C(1)(a) matters	The following State and Local government legislative framework applies to the development: <ul style="list-style-type: none"> • State Environmental Planning Policy No. 55 - Remediation of Land • State Environmental Planning Policy No.64 – Advertising and Signage • State Environmental Planning Policy (Infrastructure) 2007 • Draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities) • Marrickville Local Environmental Plan 2011 • Marrickville Development Control Plan 2011 • Marrickville Section 94/94A Contributions Plan 2014
List all documents submitted with this report for the Panel's consideration	Architectural Plans Statement of Environmental Effects Heritage Impact Statement and Supplementary Heritage Impact Statement Submission and retracted submission Recycling and Waste Management Plan BCA and Access Capability Statement Survey
Report prepared by	18 July 2017
Report date	Albert Madrigal – Acting Senior Planner

Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?

Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

Yes

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Not Applicable

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)?

Not Applicable

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment?

Yes

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

File Ref: DA201600585

Synopsis

This report concerns an application to adapt and refurbish the existing Petersham TAFE site to accommodate the Open High School including minor internal refurbishment of existing Blocks A, B, C, D and E to suit the school use as well as associated new signage, security fence and solar panels.

The application was notified in accordance with Council's notification policy and 1 submission was received raising privacy concerns. During the assessment of the application, Council requested amended plans and additional information to address Council's concerns including the privacy concerns raised by the objector. Amended documentation was received on 16 February 2017 and 15 June 2017. The objector reviewed the amended plans, who was satisfied that their concerns were addressed and subsequently withdrew their submission.

The applicant is the New South Wales Department of Education (the DOE), which is a Crown Authority. Pursuant to Clause 89(1) of the *Environmental Planning and Assessment Act 1979*, the applicant refutes Council's imposition of Condition 18 of the recommendation, which requires the payment of Section 94A contribution (being \$114,000) under the Act. It is Council's position that educational providers are not exempt from paying Section 94A contributions pursuant to Part 2.17 *Exemptions* of Marrickville Section 94/94A Contributions Plan 2014 and Section 94E Direction from the Minister of Planning dated 10 November 2006 (PS 06-020). Accordingly, it is recommended that Condition 18 should remain in the recommended conditions of consent.

The proposal generally complies with the aims, objectives and design parameters contained in Marrickville Local Environmental Plan 2011 (MLEP 2011) and Marrickville Development Control Plan 2011 (MDCP 2011).

The application is considered suitable for approval subject to the imposition of appropriate conditions.

PART A - PARTICULARS

Location: North eastern side of West Street, Petersham, between The Boulevard and New Canterbury Road. The rear (north eastern) boundary of the site is parallel to Gordon Street.

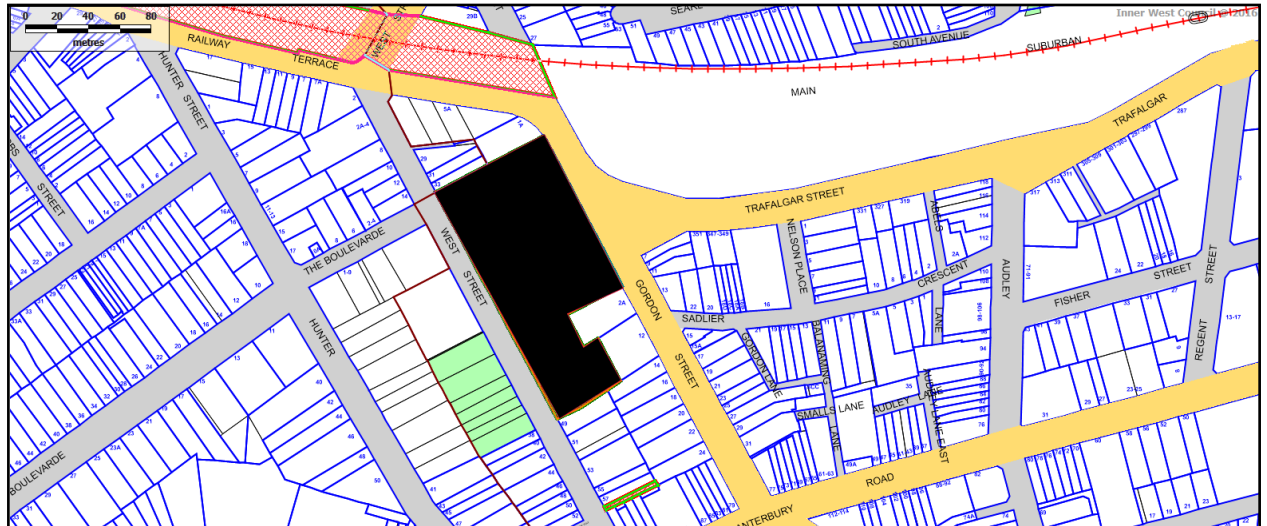


Image 2: The Site

D/A No:	DA201600585
Application Date:	14 November 2016. Additional information submitted on 16 December 2016, 16 February 2017 and 15 June 2017.
Proposal:	To adapt and refurbish the existing Petersham TAFE site to accommodate the Open High School including minor internal refurbishment of existing Blocks A, B, C, D and E to suit the school use as well as associated new signage, security fence and solar panels.
Applicant:	NSW Department of Education
Estimated Cost:	\$11,400,000
Zoning:	SP2- Educational Establishment

PART B - THE SITE AND ITS CONTEXT

Improvements:	Educational Establishment consisting of 5 blocks and 1 childcare centre
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Image 3: Block E from Gordon Street



Image 4: Block D from Block A



Image 5: Block C



Image 6: Block B

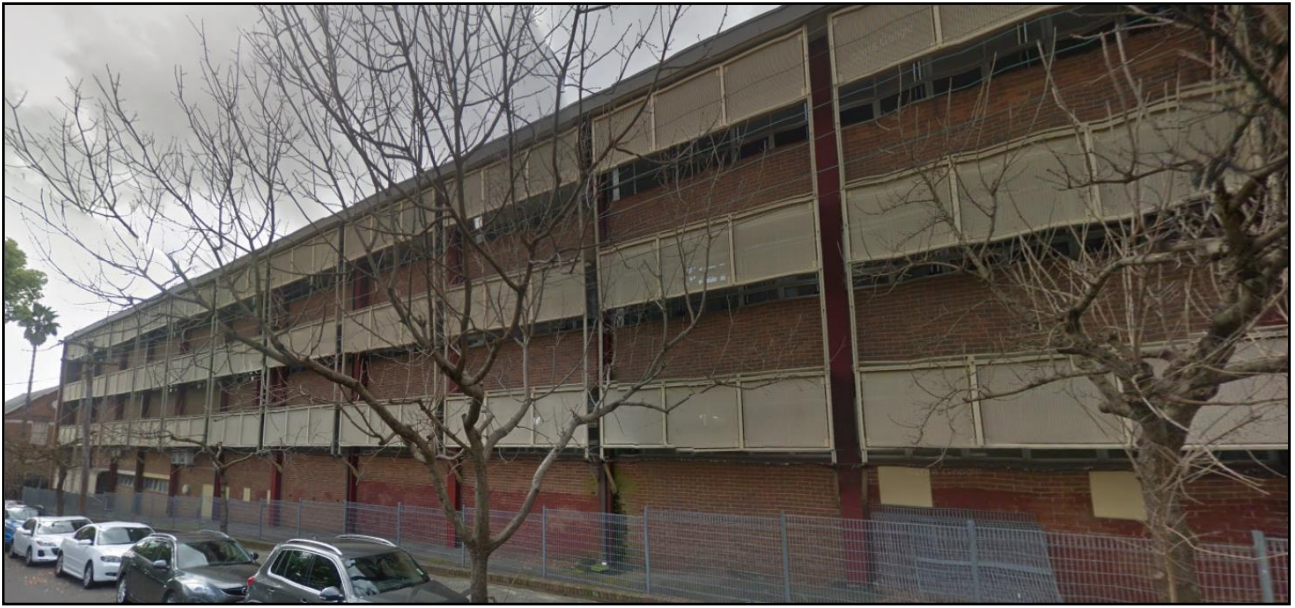


Image 7: Block A from West Street



Image 8: Block F (Child Care Centre) from West Street

Current Use: Educational Establishment

Prior Determinations: Determination No. 200300240 dated 22 July 2003 approved an application to erect four (4) identification signs at Petersham TAFE (West Street College) relating to property.

Environment: Residential

PART C - REQUIREMENTS

- 1 Zoning**
Is the proposal permissible under zoning provisions? Yes

- 2 Development Standards (Statutory Requirements):**

Type	Required	Proposed
Height of Building (max)	No maximum height limit (no change)	
Floor Space Ratio (max)	No maximum Floor Space Ratio limit (no change)	

- 3 Departures from Development Control Plan:**
None

- 4 Community Consultation:**
 Required: Yes (newspaper advertisement, on-site notice and letter notification)
 Submissions: 1 submission (withdrawn on 15 April 2017)

- 5 Other Requirements:**
 ANEF 2033 Affectation: 20-25 ANEF
 Marrickville Section 94/94A Contributions Plan 2014

PART D - ASSESSMENT

1. The Site and Surrounds

The site is known as West Street, Petersham and is located on the north eastern side of West Street, between The Boulevarde and New Canterbury Road. The site has a primary frontage of approximately 161 metres to West Street, with a varied lot depth of between 72.9 metres and 36.5 metres. The rear (north eastern) boundary of the site is parallel to Gordon Street. The site has a total area of approximately 10,463.76sqm.

The site is legally described as Lot 1 in Deposited Plan 835049 and is generally an irregular shape. The site is formerly known as TAFE NSW, Petersham. The site is currently occupied by 6 blocks; being Blocks A, B, C, D, E and F. Blocks A-E are primarily used as classrooms, meeting rooms, common rooms and offices and other ancillary uses to the school and Block F is currently used as a Children's Education and Care Centre.

A brief description of the blocks within the site is provided below:

- **Block A** – (circa 1964) original Girls' High School building, presently used for classrooms;
- **Block B** – (circa 1964) canteen and WCs;
- **Block C** – (circa 1897-8) original Girls' School with 1906 Domestic Economy addition, presently classrooms;
- **Block D** – (circa 1890) Infants School, presently classrooms;
- **Block E** – (circa 1878) original Public School, presently classrooms and offices; and
- **Block F** (circa 1993) Petersham Children's Educational and Care Centre (no works are proposed to the child care).

The site has 2 existing vehicular crossings on the northern portion of the site from West Street and a car park on the southern portion of the site. The site is located approximately 700 metres to Petersham Train Station (to the east), 250 metres to Lewisham Train Station (to the south east), 750 metres to Lewisham West Light Rail Station (to the south west) and 500 metres to

Petersham Commercial Centre (to the east). To the west of the site is a primary school (Petersham Primary School) and the surrounding development to the immediate north, south and west of the site are residential dwelling houses.

2. The Proposal

On 14 November 2016, the development application was submitted to Council. The development application seeks to adapt and refurbish the existing Petersham TAFE site to accommodate the Open High School including minor internal refurbishment of existing Blocks A, B, C, D and E to suit the school use including Building Code of Australia (BCA) accessibility works, as well as associated new signage, security fence and solar panels.

The development will comprise of the following works:

- **Minor internal alterations and additions** of Blocks A - E, including demolition of internal partition walls to create bigger classrooms, offices, meeting rooms and other common areas;
- **BCA upgrades** including upgrades to accessible toilets, lifts and new lifts, updated handrails, treads and balustrades for internal and external stairs, new handrails and ramps, widening of door openings and fire safety upgrades and accessible parking upgrades;
- **Photovoltaic Solar Panels** on the roof of Building A;
- **New signage** including new graphics within the existing signage on the Gordon Street frontage with new graphics, new graphics within a small pillar sign fronting West Street and 2 internal signs within the school grounds;
- **New steel palisade security fence** of up to 1.8 metres high (with a maximum post height of fence post 2.4 metres) around a majority of the perimeter of the school site; and
- **Change of School organisation** from a TAFE to an Open High School. The open high school offers an opportunity to students in Years 9 to 12 from all education sectors to study one or more of 12 languages. Students are drawn from over 400 schools across the greater Sydney metropolitan area and other rural regions across New South Wales. The use of the telephone, video conferencing, emails and connected classrooms will be engaged for students learning by long distance.

The following table is a comparison of the previous TAFE and the proposed open high school student and staff numbers:

Staff/Students	TAFE	Open High School
Enrolment	1,170	2,020
Staff on site	62	113
Students on site	940	90

While approximately 2,000 students are enrolled in the school, only approximately 90 students are on site at any one time given the education by distance courses offered. The Open High School operates classes from 9.00am to 3.30pm on weekdays (except school holidays and public holidays). Staff will be on site outside these hours and there will be times where students are on campus outside core school hours.

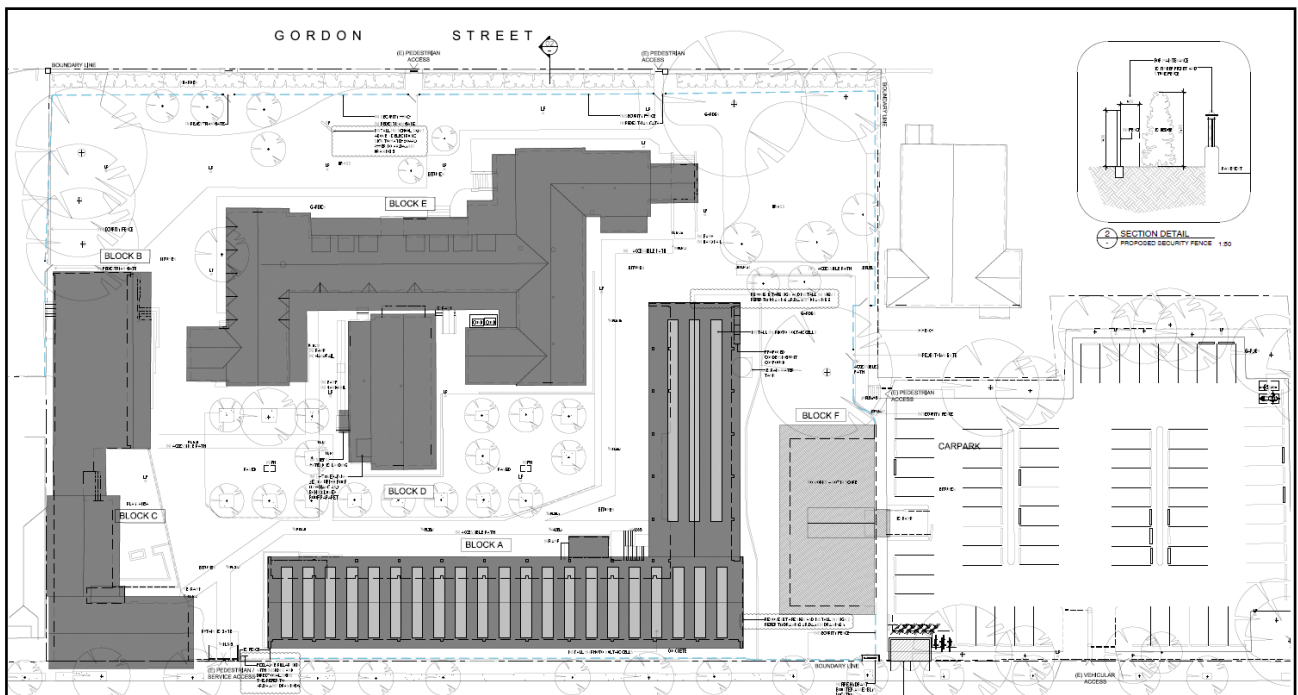


Image 9: Site Plan

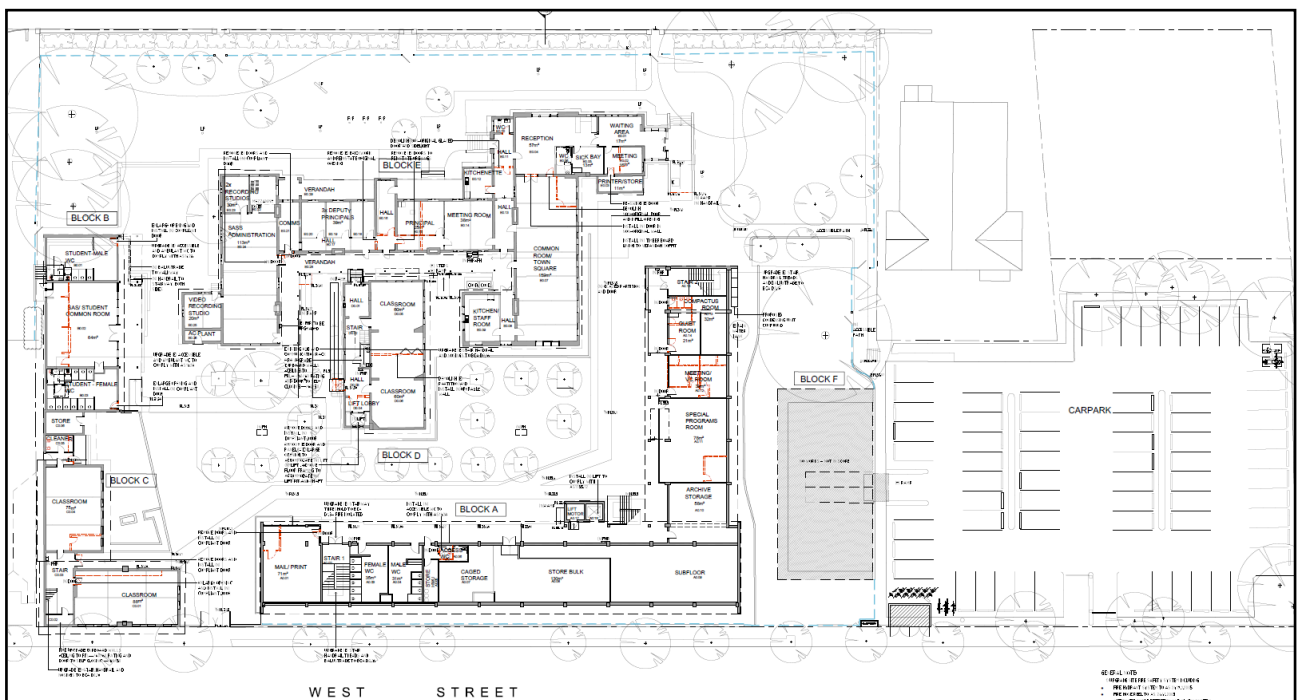


Image 10: Ground Floor Plan

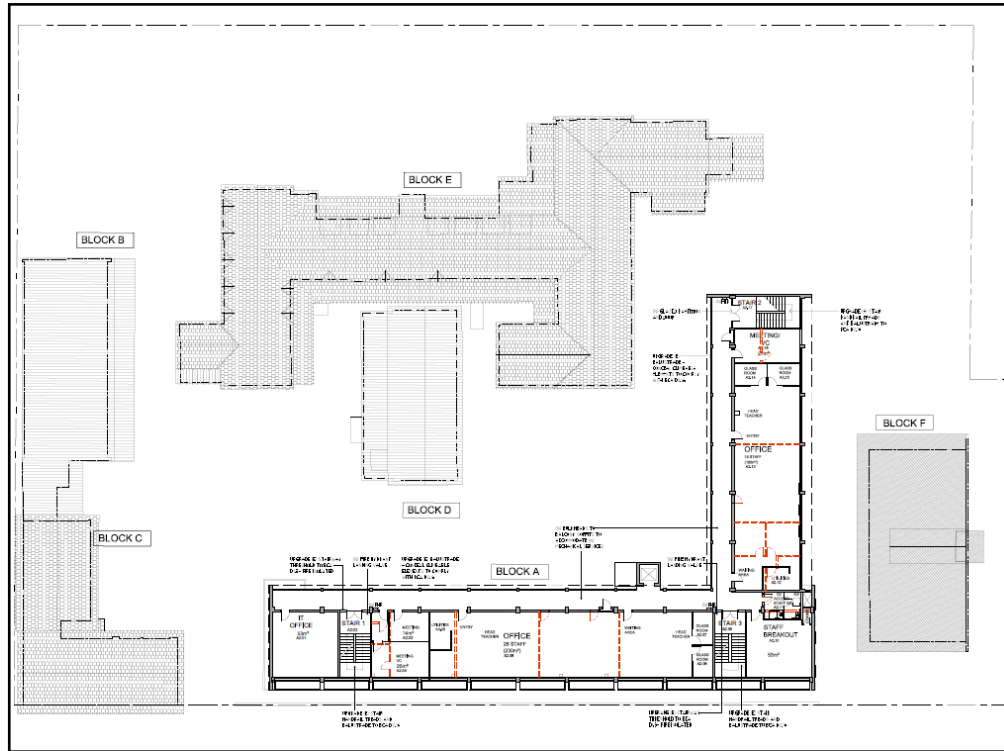


Image 11: First Floor Plan

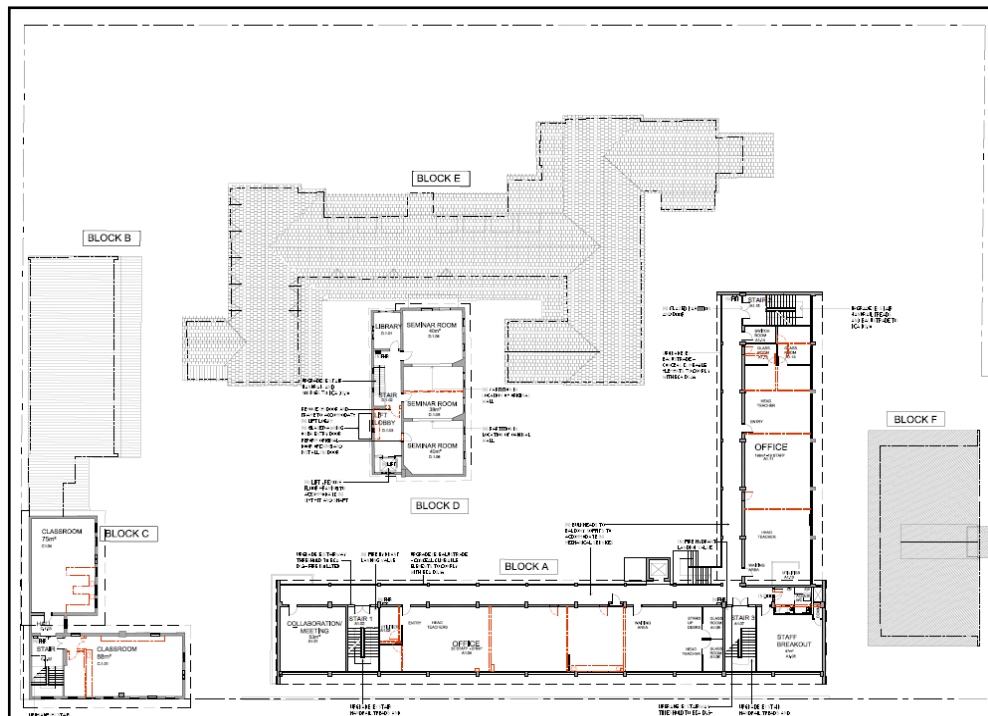


Image 12: Second Floor Plan

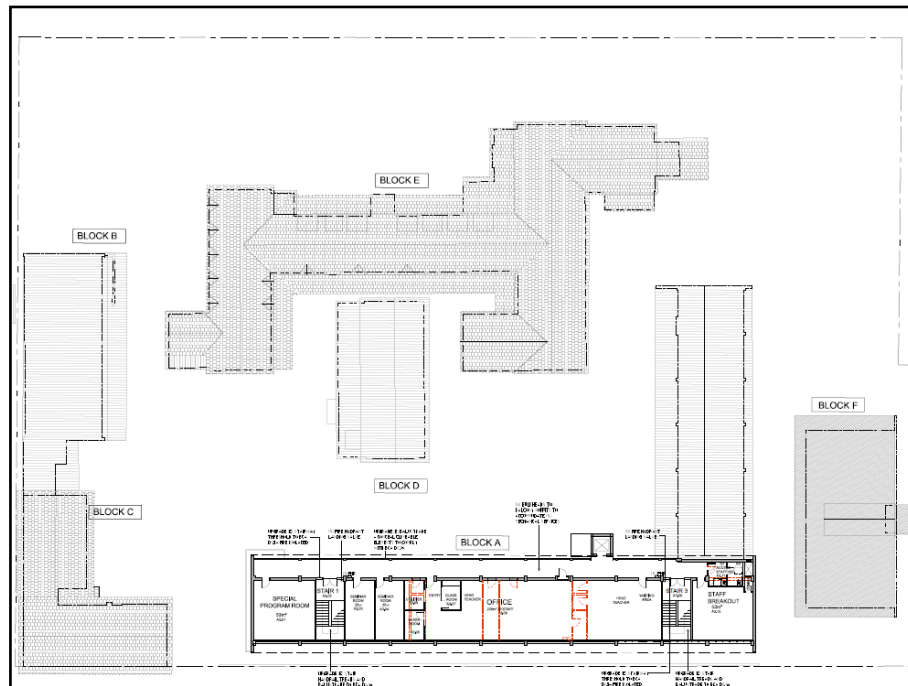


Image 13: Third Floor Plan

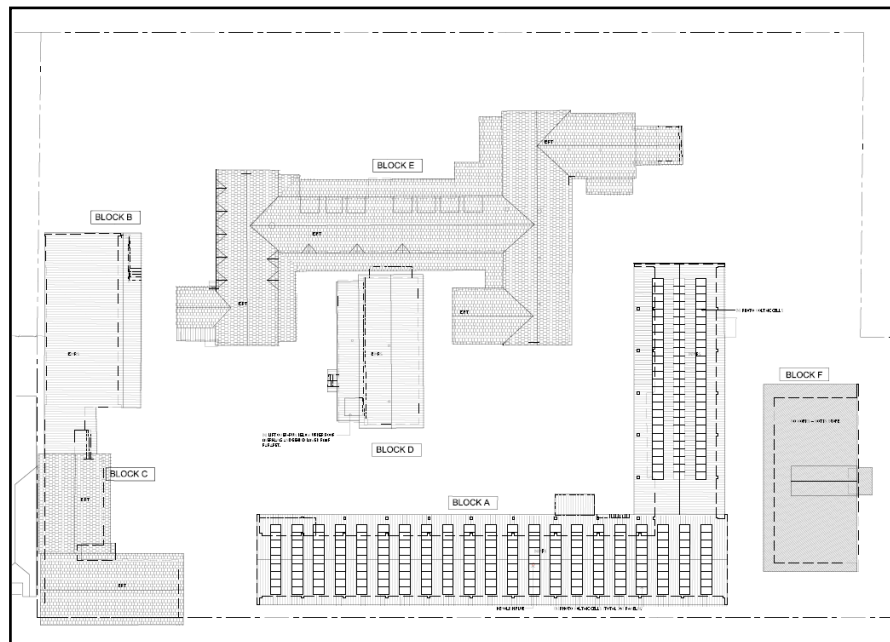


Image 14: Roof Plan

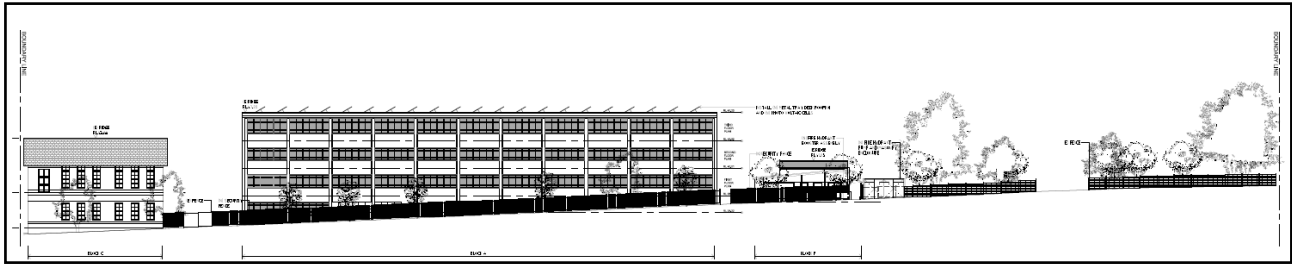


Image 15: West Street Elevation

3. Environmental Planning and Assessment Act 1979- Crown Developments

The applicant is the NSW Department of Education (the DOE). Clause 89(1)(b) of the *Environmental Planning and Assessment Act 1979* (the Act) specifies that a Consent Authority (other than the Minister) must not impose a condition on its consent to a Crown, except with the approval of the applicant or the Minister. Pursuant to Clause 226(1)(a) of the *Environmental Planning and Assessment Regulation 2000* (the Regulations), the DOE, is a public authority and is therefore a Crown authority for the purposes of the DA pursuant to Clause 89 of the Act.

4. Environmental Planning and Assessment Act 1979 - Matters to be referred to the Joint Regional Planning Panel (JRPP)

The proposal has a capital investment value (CIV) of \$11.4 million and is considered to be 'Crown Development' pursuant to Schedule 4A(5) of the Act. Given this, the application has been referred to the JRPP to exercise its consent authority functions.

5. Conditions in Contention

Marrickville Section 94/94A Contributions Plan 2014

Section 94A of the Act authorises the consent authority to grant development consent, with a condition requiring the payment of a section 94A levy which is payment of a percentage of the cost of development. Such levies may be applicable regardless of whether there is any increase in the extent of development and regardless of whether there is any demand change.

A contribution of \$114,000 would be required for the development under Marrickville Section 94/94A Contributions Plan 2014. A condition requiring that contribution to be paid is included in the recommendation.

During the assessment of the application, the DOE have informed Council that they do not agree to the imposition of Section 94A contributions on the consent, being an Educational provider and a Public Authority.

Part 2.17 *Exemptions* of Marrickville Section 94/94A Contributions Plan 2014 contains exemptions for the payment of Section 94 or 94A development contributions for certain developments. This policy is based on Section 94E Directions by the Minister for Planning PS 06-20 (dated 10 November 2006) which provides that a levy under section 94A cannot be imposed on development:

(a) for the purpose of disabled access,

(b) for the sole purpose of affordable housing,

(c) for the purpose of reducing the consumption of mains supplied potable water or reducing energy consumption of a building,

(d) for the sole purpose of the adaptive reuse of an item of environmental heritage, or

(e) other than the subdivision of land, where a condition under section 94 of the Act has been imposed under a previous development consent relating to the subdivision of land on which the development is proposed to be carried out.

Based on the above exemptions, it is in the opinion of Council that educational establishments are not exempt from paying Section 94A contributions as per Marrickville Section 94/94A Contributions Plan and the Section 94E Directions by the Minister as the development extends beyond the scope of the above works for disabled access (referring to point a) and does not comprise of any of the remaining works listed above (in Points [(b)-(e)]).

A Commonwealth funded Building Education Revolution program was implemented as part of a stimulus package and funded the construction of amenities for government and non-government schools. On 9 September 2009 a Ministerial Direction was issued (PS 09-025) under section 94E of the Act which prohibited developer contributions (both s94 and s94A) from being imposed on projects funded through this program.

This program has now ceased and the Ministerial Direction (PS 16 – 006) is no longer required (declared under Ministerial Direction dated 14 October 2016). The above directions further support Council's view that educational establishments are currently not specifically exempted from paying Section 94A contributions under the Act or any direction from the Minister.

It is therefore recommended that a condition requiring the payment of Section 94A be imposed on the consent (Condition 18).

6. State Environmental Planning Policy No. 55 - Remediation of Land

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) contains planning controls for the remediation of contaminated land. The policy states that land must not be developed if it is unsuitable for a proposed use because it is contaminated.

The site has been used as education establishment since 1884. Given the past and present use for education, it is unlikely that the site is contaminated. Further the scope of work is minimal and does not involve any excavation of the land. On this basis, the site is considered suitable for the education use and investigation under SEPP 55 is not required.

7. State Environmental Planning Policy No.64 – Advertising and Signage

State Environmental Planning Policy No. 64 - Advertising and Signage (SEPP 64) specifies aims and objectives and assessment criteria for signage.

The following signage is requested as part of the application:

Signage adjacent to the street

- Installation of a sign indicating the school name and logo, 'NSW School of Languages' within the existing signage board facing Gordon Street (L:1550mm, H: 1300mm);
- New graphics within a small pillar sign indicating the school name and logo, 'NSW School of Languages' facing West Street;

Internal Signage

- Sign indicating the school name and logo, 'NSW School of Languages' on the east façade of Block A;
- Sign indicating the school name and logo, 'NSW School of Languages' on the south façade of Block A

Schedule 1 of SEPP 64 specifies assessment criteria for signage relating to character of the area, special areas, views and vistas, streetscape, setting or landscaping, site and building, illumination and safety. The signage is considered satisfactory having regard to the assessment criteria contained in Schedule 1 of SEPP 64.

Signage is discussed in more detail later in the report under Part 2.12 of MDCP 2011.

8. State Environmental Planning Policy (Infrastructure) 2007

The following Clauses apply to the development under State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure):

- Clause 87 – Impact of rail noise or vibration on non-rail development (the site is adjacent to a railway line);
- Clause 101 – Frontage to a classified road (the site has frontage to Gordon Street); and
- Clause 102 – Impact of Road noise or vibration on non-road development.

The application seeks minor alterations and additions to the existing educational premises and does not seek enlargement or expansion of the development. There is an overall reduction in students and staff from the previous use as a TAFE (1002 staff and students) to an Open High school (203 staff and students, which equates to an overall deficit of 799 people on the site). Therefore, the proposed works are not considered to constitute 'Traffic Generating Development' pursuant to Clause 104 and Schedule 3 of the Infrastructure SEPP in that the development does not involve an 'enlargement' of the premises. Thus, a formal referral to RMS is not required.

The following assessment is made pursuant to the relevant clauses of SEPP Infrastructure applying to the development:

- Clauses 87 and 102 of SEPP Infrastructure require the Consent Authority to take into consideration any guidelines that are issued by the secretary for the purposes for these clauses in relation to noise impacts of rail noise and road traffic. The application seeks minor alterations and additions to the existing educational establishment in Blocks A-E including removal of internal partition walls and BCA upgrades. No major alterations and additions to the existing external fabric of the buildings are proposed. It is therefore onerous to require any additional consideration and/or works for noise attenuation under SEPP Infrastructure. In this regard, the development is considered acceptable having regard to the impact of noise or vibration from rail noise and road noise pursuant to Clauses 87 and 102 of SEPP Infrastructure; and
- Pursuant to Clause 101 (2) of SEPP Infrastructure, the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that the efficiency and operation of the classified road will not be adversely affected by the development. Vehicular access to the property is provided from West Street and as such is provided by a road other than the classified road. The development is unlikely to generate additional vehicular traffic to the site given the significant reduction in student and staff numbers to the site as previously specified. As such, the development would not affect the safety, efficiency and ongoing operation of the classified road.

In view of the above assessment, the development is acceptable pursuant to Clauses 87, 101 and 102 of SEPP Infrastructure.

9. Draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities)

Draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities) (Draft SEPP for Educational Establishments and Child Care Facilities) was placed on public exhibition commencing from 3 February 2017 to 7 April 2017 and accordingly is a matter for consideration in the assessment of the application under Section 79C(1)(a)(ii) of the Environmental Planning and Assessment Act 1979.

The SEPP for Educational Establishments and Child Care Facilities contains provisions which aim to streamline the planning system for education and child care facilities including changes to exempt and complying development and aims to assist TAFEs and universities to expand and adapt their specialist facilities in response to the growing need. The proposal is considered satisfactory in relation to the relevant provisions contained in the Draft SEPP for Educational Establishments and Child Care Facilities.

10. Marrickville Local Environmental Plan 2011

(i) Land Use Table and Zone Objectives (Clause 2.3)

The property is zoned SP2- Educational Establishment under the provisions of MLEP 2011. The development is permissible with Council's consent under the zoning provisions applying to the land.

(ii) Demolition (Clause 2.7)

Clause 2.7 of MLEP 2011 states that the demolition of a building or work may be carried out only with development consent. The application seeks consent for demolition works. Council's standard conditions relating to demolition works are included in the recommendation.

(iii) Height (Clause 4.3)

There is no maximum height limit on the site and the development does not seek to modify the maximum building height of the existing development. The development is satisfactory under Clause 4.3 of MLEP 2011.

(iv) Floor Space Ratio (Clause 4.4)

There is no maximum Floor Space Ratio (FSR) limit on the site and the development does not seek to modify the existing gross floor area of the existing development. The application is satisfactory under Clause 4.4 of MLEP 2011.

(v) Heritage Conservation (Clause 5.10)

The site is identified as a Local Heritage Item (Item No. I230) - Petersham Girls High School (former), pursuant to MLEP 2011. The site is also located adjacent to a local heritage item on at 2A Gordon Street being a Petersham Presbyterian Church and Parish Hall (Item No. I193).

The applicant submitted a Heritage Impact Statement (HIS) completed by TDK Architects (dated November 2016) which identified the following significant heritage aspects of the site:

- **Block E**- original public school containing aesthetic value, being a rare example of the use of the Gothic Revival style dating from 1878 with additions in 1884-1903;
- **Block D**- former infants school (circa 1890). Contains aesthetic value being a simple and functional two-storey building designed by W.E Kemp, using similar brick walling and stone dressings as the original school;

- **Block C-** original girl's school dating from 1897-8 with a 1906 Domestic Economy addition. The building contains aesthetic value being an intact, representative example of a small two storey school building carried out by J. S. Wigram in a simplified version of the Romanesque Style established by Kemp.
- **The site as a whole-** contains aesthetic value being distinctive and consistent in style, pleasant scale of materials and finishes and represents the way the buildings grew between 1878- 1907 with harmonious architectural treatment. Blocks C, D & E contains physical evidence of the changes occurring in the NSW education system from 1878 to 1903, for e.g., the buildings show the evidence of changes in planning, room sizes, architectural expression, lighting and ventilation. The site also has historical social value being in continuous educational use for over 118 years and the original public school being established in 1878 demonstrates the growth of Petersham from a rural settlement to inner city suburb. Evidence of the continual expansion and improvement of the buildings between 1878 and 1913 reflects the constant struggle of the educational authorities to keep up with an expanding population and a society changing from a pastoral to an industrial existence.

The HIS identified a number of acceptable impacts to the heritage significance of the heritage buildings of Blocks C, D and E including:

- Removal of original doors in Blocks C, D, and E;
- Installation of external ramps to Blocks D and E;
- Removal of an original partition wall in Block E (approximate circa. 1910);
- Installation of a new lift in Block D with a portion of the lift overrun projecting above the roof by approximately 600mm above the lowest part of the roof;
- New light-weight partitions for Blocks E and D;
- Installation of external ramps in Blocks D and E, including the removal of balustrading, a timber porch and timber entry doors (circa. 1900s) on the northern side of Block D to accommodate a new accessible entry ramp;
- Installation of hand railings and nosings to original timber stairs in Blocks C and D; and
- Visual impact of the black, security palisade fencing around the perimeter of the site.

The application was referred to Council's Heritage Advisor who supported the proposal on the basis that the development has been thoroughly considerate of the heritage significance of the site. The additions and alterations are relatively minor in nature and will not adversely impact on the heritage significance of the site and the works are largely required for BCA compliance. The works are necessary to give the heritage item a continuing use. The security fencing around the perimeter of the site will not be seen from Gordon Street (where it fronts Block E) as it will be covered by the vegetation fronting Gordon Street.

A condition is recommended that a suitably qualified conservation architect be engaged to advise the person acting on this consent on any heritage issues arising during construction. Such evidence is to be submitted to the Principal prior to the issue of a Construction Certificate (CC). The conservation architect's recommendations are to be implemented to the satisfaction of the Crown Certifying Authority (CCA) prior to the issue of an Occupation Certificate (OC). Subject to compliance with the recommendations above, the development is acceptable under Clause 5.10 of MLEP 2011.

(vi) Terrestrial Biodiversity (Clause 6.4)

The site is located within a Biodiversity area (Bandicoot Protection Area) pursuant to Clause 6.4 of MLEP 2011. Part 2.13 of MDCP 2011 contains more detailed objectives and controls for developments within Bandicoot Protection areas.

Under Part 2.13.3 of MDCP 2011, the application will not be required to submit an assessment of significance for Bandicoots as the development will not disturb or reduce existing pervious

surface area of the site by more than 25%. Accordingly, no further action is required having regard to Terrestrial Biodiversity under Clause 6.4 of MLEP 2011 and Part 2.13 of MDCP 2011.

(vii) Development in areas subject to Aircraft Noise (Clause 6.5)

Clause 6.5 applies to development on that that (in part) is in an ANEF contour of 20 or greater, and the consent authority considers is likely to be adversely affected by aircraft noise.

The property is located within the 20-25 Australian Noise Exposure Forecast (2033) Contour. The development is likely to be affected by aircraft noise.

The application seeks minor alterations and additions to the existing educational establishment in Blocks A-E including removal of internal partition walls and BCA upgrades. No major alterations and additions to the existing external fabric of the buildings are proposed. It is therefore considered onerous to require additional consideration and/or works for noise attenuation under Clause 6.5.

In view of the above, the development is reasonable under Clause 6.5 of MLEP 2011.

11. Marrickville Development Control Plan 2011

(i) Equity of Access and Mobility (Part 2.5)

Part 2.5 of MDCP 2011 requires consideration to be given to accessibility before granting development consent.

The application seeks upgrade works to comply with Building Code of Australia (BCA) requirements including but not limited to Equity of Access as relating to:

- Upgrades to accessible toilets;
- Upgrades to lifts and new lifts;
- Updated handrails, treads and balustrades for internal and external stairs;
- New handrails and ramps; and
- Widening of door openings.

With regard to accessible spaces, the existing site contains 67 car parking spaces (including 1 accessible space). Table 1, Part 2.5.10 of MDCP 2011 specifies that in a car parking area containing 10 or more spaces within educational establishments, 1 accessible space, designed in accordance with relevant Australian Standards, must be provided for every 10 parking spaces or part thereof. Based on the existing provision of 67 car parking spaces, 7 spaces should be accessible under MDCP 2011. The plans submitted with the application include no provision of accessible spaces in accordance with the design standards of Part 2.10 of MDCP.

While it is acknowledged that the car parking is existing, given the undersupply of disabled parking on the site, the scope of upgrade works to the school to improve access for people with disabilities (as proposed in the DA) and the existing provision of non-accessible parking spaces which exceeds Council's controls under Part 2.10 of MDCP 2011 (to be discussed later in the report), Council assessed that it would be reasonable to require the applicant to upgrade the provision of accessible car spaces on the site in accordance with part 2.5 of MDCP 2011.

During the assessment of the application, the DOE, as a Crown Authority pursuant to Clause 89 of the Act, refused Council's request to accommodate 7 accessible car parking spaces as a condition of consent. However, it was agreed that 4 accessible parking spaces would be more feasible for the DOE, and it was requested that this matter be conditioned prior to the issue of the Construction Certificate.

A condition is included in the recommendation requiring an updated car parking layout indicating the provision of 4 accessible spaces in accordance with the standards contained within Part 2.10 of Marrickville Development Control Plan 2011 – Parking.

The application was referred to Council's Building Surveyor who raised no objections to the proposal, subject to conditions of consent, which have been included in the recommendation. Given the above and subject to compliance with the conditions imposed in the consent relating to accessible parking, the proposed development is considered reasonable having regard to the access controls contained in MDCP 2011.

Despite the above, the requirements of MDCP 2011 are effectively superseded by the introduction of the new Premises Standards. An assessment of whether or not these aspects of the proposal fully comply with the requirements of relevant Australian Standards and the new Premises Standards has not been undertaken as part of this assessment. That assessment would form part of the assessment under the Premises Standards at the Construction Certificate stage of the proposal.

(ii) Visual Privacy (Part 2.6)

Part 2.6 of MDCP 2011 contains objectives and controls relating to visual privacy.

33 West Street contains a solid timber fence at the rear (north eastern) boundary of the site which encroaches on the subject site (adjoining Block B, see Image 1 below).



Image 1: Rear boundary fencing of No. 33 West Street encroaching onto the subject site and adjoining Block B to the left of the photo (looking toward south west and West Street).

The original plans submitted with the application on 14 November 2017 proposed an open-tread palisade security fence adjacent to the side boundary of 33 West Street (traversing between Block B and 33 West Street) which would require a partial demolition of the rear boundary fence of 33 West Street. This would have also required partial demolition of the front fence of 33 West Street. Concern was raised regarding the visual privacy impacts to the neighbour with the provision of an open palisade fence between the school and 33 West Street.

The applicant was requested to provide amended plans and/or additional information to indicate how they were to address the above privacy issue. The applicant submitted amended plans on 16 February 2017 which ends the Palisade Fence at the rear fencing line of No. 33 West Street, requiring no demolition of the neighbour's fence. This omits the provision of any open fencing between the school and the neighbouring residence.

In view of the above amendments, the application is considered satisfactory having regard to visual privacy under Part 2.6 of MDCP 2011.

(iii) Community Safety (Part 2.9)

Part 2.9 of MDCP 2011 contains objectives and controls relating to community safety.

The application proposes an open-tread, steel, Palisade security fence (approximately 1.8 metres high with a maximum post height of 2.4 metres) to traverse a majority of the perimeter of the site. The proposal is acceptable regarding Community Safety principles specified in Part 2.9 of MDCP 2011 in that the fencing provides additional security for the school whilst enabling passive surveillance from the school to the street. The fencing reinforces the delineation between private and public realms, restricts unauthorised access to the buildings and minimises opportunities for vandalism and graffiti on the site. The proposal maintains the 2 clear pedestrian entryways from Gordon Street, maintaining clear path of travel to the school from the public realm.

The development is acceptable in relation to the objectives and controls of Community Safety under Part 2.9 of MDCP 2011.

(iv) Parking (Part 2.10)

The property is located in Parking Area 2 under Part 2.10 of MDCP 2011. The following car, bicycle and motor cycle parking requirements apply to the development:

- 1 car parking space per 4 staff plus pick up and drop off facility for parents and carers and 1 car parking space per 40sqm for the Childcare Centre;
- 1 bicycle parking space per 20 Staff for staff + 2 for customers; and
- Motor cycle parking provided at the rate of 5% of the total car parking requirement.

Based on the above rates and proposed staff and students, the development generates the demand of:

- 28 car parking spaces for school staff (based on 113 staff);
- 10 car parking spaces for the child care centre (based on a total gross floor area of approximately 385sqm for the child care centre);
- 15 bicycle spaces; and
- 2 motorcycle spaces.

The applicant submitted amended plans on 16 February 2017 which include the provision of 18 bicycle parking spaces and 2 motorcycle parking spaces above. The amended plan accommodates submitted on 16 February 2017 includes 65 car spaces which exceeds the car parking requirements for non-accessible spaces under Part 2.10 of MDCP 2011 by 27 spaces.

(v) Fencing (Part 2.11)

Part 2.11 of MDCP 2011 contains objectives and controls relating to fencing. While there are no specific fencing controls applying to educational establishments, the general objectives and controls under Part 2.11 of MDCP 2011 require that fencing is sympathetic to heritage items and heritage conservation areas, fencing is unobtrusive to the streetscape and that fencing comply with Crime Prevention Through Environmental Design (CPTED) principles.

As previously discussed, the proposal includes a 1.8 metre high palisade fence (with a maximum fence post height of 2.4 metres) around a majority of the perimeter of the site. A portion of the fence will traverse adjacent to the Heritage Item being Block E (fronting Gordon Street). The fence traverses adjacent to Block A (adjacent to West Street) which is a non-heritage item.

The development satisfies the general fencing objectives and controls under Part 2.11 of MDCP 2011 in that the fencing will be sympathetic to the heritage item (Block E) when viewed from Gordon Street as it will be substantially covered by existing hedging along the Gordon Street frontage and will not be visible from the streetscape.

Being an open, contemporary palisade fence which allows for sight of lines between the property and public realm, the fencing will be visually unobtrusive and will not visually detract from the buildings on the site or streetscape.

In view of the above assessment, the development is acceptable in relation to the Fencing objectives and controls under Part 2.11 of MDCP 2011.

(vi) Signage and Advertising Structures (Part 2.12)

Part 2.12 of MDCP 2011 specifies Council's objectives and requirements for the erection and display of advertising signs. Those provisions are intended to protect the significant characteristics of retail/commercial strips, neighbourhoods, buildings, streetscapes, vistas and the skyline. The provisions include general controls for signage, prohibitions, preferred options for signage and size restrictions for signage.

Control C21, Part 2.12.4.4 contains specific controls for advertising in SP2 zones. Particularly, Control C21 specifies that where the applicant shows a justifiable need, the amenity of the area must not be detrimentally affected.

As discussed previously, the following signage is proposed:

Signage adjacent to the street

- Installation of a sign indicating the school name and logo, 'NSW School of Languages' within the existing signage board facing Gordon Street (L:1550mm, H: 1300mm);
- Small Pillar Sign indicating the school name and logo, 'NSW School of Languages' facing West Street;

Internal Signage

- Sign indicating the school name and logo, 'NSW School of Languages' on the east façade of Block A;
- Sign indicating the school name and logo, 'NSW School of Languages' on the south façade of Block A

It is considered that the signage is justifiable for the proposed Open High School to ensure legibility to the site. It is assessed that the proposed signage is reasonably minor in nature, visually subordinate to the buildings on the site and will not visually intrusive to the development or the streetscape. Accordingly, the signage will not adversely impact on the amenity of the area.

In view of the above, the development is acceptable under Part 2.12 of MDCP 2011.

(vii) Site Facilities and Waste Management (Part 2.21)

2.21.2.1 Recycling and Waste Management Plan

A Recycling and Waste Management Plan (RWMP) in accordance with Council's requirements was submitted with the application and is considered to be adequate.

PART 9 – STRATEGIC CONTEXT

The property is located in the Petersham South Planning Precinct (Precinct 6) under Marrickville Development Control Plan 2011.

The development is acceptable in relation to the future desired character of the area in that the proposal protects the identified heritage items on the site and does not adversely impact on the character of the wider streetscape.

12. Marrickville Section 94/94A Contributions Plan 2014

Section 94A of the Act authorises the consent authority to grant development consent, with a condition requiring the payment of a section 94A levy which is payment of a percentage of the cost of development. Such levies may be applicable regardless of whether there is any increase in the extent of development and regardless of whether there is any demand change.

A contribution of \$114,000 would be required for the development under Marrickville Section 94/94A Contributions Plan 2014. The applicant has refuted the imposition of such a requirement on the consent. For the reasons discussed earlier in the report, a condition requiring that contribution to be paid is to be maintained in the recommendation.

13. Engineering Comments

The application was referred to Council's Development Engineer who did not object to the proposal, subject to recommended conditions of consent. One of the conditions imposed on the consent requires the applicant to reconstruct the half width concrete footpath and nature strip from the south eastern boundary of the car park to the commencement of Block A in accordance with Council's standard crossing and foot path specifications and Council's Public Domain Design Guide as per the Condition 40 below:

40. *"The existing concrete footpath in West Street from the south eastern boundary of the car park to the commencement of Block "A" must be reconstructed as a half width concrete footpath and nature strip in accordance with Council's Standard crossing and footpath specifications and Council's Public Domain Design Guide, at no cost to Council and before the issue of the Occupation Certificate.*

Reason: *To provide a safe and suitable means of public road pedestrian access to the development and to ensure that the amenity of the area is in keeping with the standard of the development."*

The above condition is on the basis that the footpath has been uprooted from trees within the site (see images 16, 17 and 18 below) and the public domain works are reasonably related to the development as per the Newbury Test summarised in the next section below.

The images of the footpath requiring repair are provided below.



Image 16: Damaged footpath from trees within the site

e



Image 17: Damaged footpath from trees within the site



Image 18: Damaged footpath adjacent to the site

Council has reviewed the planning principles of *Newbury District Council v Secretary of State for the Environment* (1981) which contains the following three principles when considering the reasonableness of imposing Condition 40 on the consent:

1. *It must be imposed for a planning purpose.*

The planning purpose is to improve public infrastructure (i.e. the footpath) and remediate the general state of disrepair (including cracks and uneven surfaces) to the footpath adjacent to the school (fronting West Street) to improve the safety of pedestrians walking adjacent to the school (including students and staff of the school who utilise the footpath).

2. *It must fairly and reasonably relate to the development for which permission is being given.*

The condition fairly and reasonably relates to the development for which permission is being given for the following reasons:

- The footpath is adjacent to the school site and will be utilised by the general public, including students, staff and visitors for the school;
- The damage to the footpath has been uprooted by the tree roots that are located within the school's property boundary; and
- The works include the removal and installation of new security fencing adjacent to the footpath. Council only requires the applicant to repair the footpath adjacent to the school where fencing works will be undertaken and adjacent to where the trees within the property boundary of the school have damaged the footpath.

In the view of the above, it is considered that repairs to the footpath adjacent to the school does fairly and reasonably relate to the development.

3. *It must be reasonable.*

Based on the above arguments, the condition is reasonable in that:

- The footpath is public infrastructure adjacent to the school which will be utilised by the general public and staff/students/visitors of the school;
- The damage to the footpath is caused by the trees within the school grounds;
- The repair of the footpath is reasonably within the scope of works to the school, as Council only requires the footpath to be replaced adjacent to the site and adjacent to the proposed new security fence fronting West Street.

In view of the above arguments, it is the opinion of Council that the imposition of Condition 40 requiring the applicant to repair the footpath adjacent to a portion of the property fronting West Street is reasonable.

During the assessment of the application, the applicant originally objected to the imposition of Condition 40 to reconstruct the footpath. After further discussions, the applicant withdrew their objection to the imposition of Condition 40 and has now agreed to this condition.

14. Community Consultation

The application was advertised, an on-site notice displayed on the property and residents/property owners in the vicinity of the property were notified of the development in accordance with Council's policy. 1 submission was received raising the following concerns which have already been discussed throughout the main body of this report:

- (i) The proposed palisade security fencing adjoining the side property boundary of 33 West Street will cause adverse visual privacy, aesthetic and security impacts to the neighbouring residents.

Comment:

As discussed in the report, the applicant was requested to provide amended plans and/or additional information to indicate how they were to address the privacy, security and aesthetic impacts of the fence. The applicant submitted amended plans on 16 February 2017 which ends the Palisade Fence at the rear fencing line of 33 West Street, requiring no demolition of the neighbour's fence.

The objector viewed the amended plans and was satisfied that their objection has been addressed. The objection was formally withdrawn on 15 April 2017.

15. Conclusion

The heads of consideration under Section 79C of the Environmental Planning and Assessment Act 1979, as are of relevance to the application, have been taken into consideration in the assessment of this application. The application is considered suitable for approval subject to the imposition of appropriate conditions.

PART E - RECOMMENDATION

- A. THAT** the development application to adapt and refurbish the existing Petersham TAFE site to accommodate the Open High School including minor internal refurbishment of existing Blocks A, B, C, D and E to suit the school use as well as associated new signage, security fence and solar panels be **APPROVED** subject to the following conditions:

GENERAL

1. The development must be carried out in accordance with plans and details listed below:

Plan No. and Issue	Plan/ Certificate Type	Date Issued	Prepared by	Date Submitted
AR-DA-0000 Revision C	Cover Sheet and Site Plan	15.06.17	TKD Architects	15.06.17
AR-DA-1001 Revision C	Existing and Demolition Site Plan	15.06.17	TKD Architects	15.06.17
AR-DA-1101 Revision E	Proposed Site Plan	15.06.17	TKD Architects	15.06.17
AR-DA-2001 Revision D	Proposed Ground Floor Plan	15.06.17	TKD Architects	15.06.17
AR-DA-2002 Revision C	Proposed First Floor Plan	08.11.16	TKD Architects	15.06.17
AR-DA-2003 Revision A	Proposed Second Floor Plan	08.11.16	TKD Architects	15.06.17
AR-DA-2004 Revision A	Proposed Third Floor Plan	08.11.16	TKD Architects	15.06.17
AR-DA-2005 Revision A	Proposed Roof Plan	08.11.16	TKD Architects	15.06.17
AR-DA-3001 Revision B	West Street Elevation	20.04.17	TKD Architects	15.06.17
AR-DA-	Site Signage	16.02.16	TKD Architects	15.06.17

4001 Revision A				
AR-DA- 4002 Revision A	Site Fence Detail	20.04.17	TKD Architects	15.06.17

and details submitted to Council on 14 November 2016, 16 December 2016, 16 February 2017 and 15 June 2017 with the application for development consent and as amended by the following conditions.

Reason: To confirm the details of the application submitted by the applicant.

2. All building work must be carried out in accordance with the provisions of the National Construction Code (Building Code of Australia).

Reason: To ensure the work is carried out to an acceptable standard and in accordance with the State's building code.

3. The signage must be erected substantially in accordance with Plan No. AR-DA-4001, Revision A, dated 16 February 2017 and details submitted to Council on 16 February 2017 with the application for development consent as amended by the following conditions.

Reason: To confirm the details of the application as submitted by the applicant.

BEFORE COMMENCING DEMOLITION, EXCAVATION AND/OR BUILDING WORK

For the purpose of interpreting this consent, a Crown Certifying Authority (CCA) means a principal certifying authority appointed under Section 109E(1) of the Environmental Planning and Assessment Act 1979. Pursuant to Section 109E(3) of the Act, the PCA is principally responsible for ensuring that the works are carried out in accordance with the approved plans, conditions of consent and the provisions of the National Construction Code (Building Code of Australia).

4. No work must commence until:

- a) A Crown Certifying Authority has been appointed. Where an Accredited Certifier is the appointed, Council must be notified within 2 days of the appointment; and
- b) A minimum of 2 days written notice must be given to Council of the intention to commence work.

Reason: To comply with the provisions of the Environmental Planning and Assessment Act.

5. A Crown Certificate must be obtained before commencing building work. Building work means any physical activity involved in the construction of a building. This definition includes the installation of fire safety measures.

Reason: To comply with the provisions of the Environmental Planning and Assessment Act.

6. Sanitary facilities must be provided at or in the vicinity of the work site in accordance with the WorkCover Authority of NSW, Code of Practice 'Amenities for Construction'. Each toilet must be connected to the sewer, septic or portable chemical toilet before work commences.

Facilities must be located so that they will not cause a nuisance.

Reason: To ensure that sufficient and appropriate sanitary facilities are provided on the site.

7. All demolition work must:

- a) Be carried out in accordance with the requirements of Australian Standard AS 2601 'The demolition of structures' and the Work Health and Safety Act and Regulations; and
- b) Where asbestos is to be removed it must be done in accordance with the requirements of the WorkCover Authority of NSW and disposed of in accordance with requirements of the Department of Environment, Climate Change and Water.

Reason: To ensure that the demolition work is carried out safely.

8. Where any loading, unloading or construction is to occur from a public place, Council must be contacted to determine if any permits or traffic management plans are required to be obtained from Council before work commences.

Reason: To protect the amenity of the area.

9. All services in the building being demolished must be disconnected in accordance with the requirements of the responsible authorities before work commences.

Reason: To ensure that the demolition work is carried out safely.

10. The site must be enclosed with suitable fencing to prohibit unauthorised access. The fencing must be erected as a barrier between the public place and any neighbouring property, before work commences.

Reason: To secure the area of the site works maintaining public safety.

11. A rigid and durable sign must be erected in a prominent position on the site, before work commences. The sign must be maintained at all times until all work has been completed. The sign must include:

- a) The name, address and telephone number of the CCA;
- b) A telephone number on which Principal Contractor (if any) can be contacted outside working hours; and
- c) A statement advising: 'Unauthorised Entry To The Work Site Is Prohibited'.

Reason: To maintain the safety of the public and to ensure compliance with the Environmental Planning and Assessment Regulations.

12. A Soil and Water Management Plan must be prepared in accordance with Landcom Soils and Construction, Volume 1, Managing Urban Stormwater (Particular reference is made to Chapter 9, "Urban Construction Sites") and submitted to and accepted by the Crown Certifying Authority. A copy of this document must be submitted to and accepted by CCA before work commences. The plan must indicate:

- a) Where the builder's materials and waste are to be stored;
- b) Where the sediment fences are to be installed on the site;
- c) What facilities are to be provided to clean the wheels and bodies of all vehicles leaving the site to prevent the tracking of debris and soil onto the public way; and
- d) How access to the site will be provided.

All devices must be constructed and maintained on site while work is carried out.

Reason: To prevent soil erosion and sedimentation of the stormwater network.

13. The person acting on this consent must apply as required for all necessary permits including crane permits, road opening permits, hoarding permits, footpath occupation permits and/or any other approvals under Section 68 (Approvals) of the Local Government Act, 1993 or Section 138 of the Roads Act, 1993.
Reason: To ensure all necessary approvals have been applied for.
14. Where it is proposed to carry out works in public roads or Council controlled lands, a road opening permit must be obtained from Council before the carrying out of any works in public roads or Council controlled lands. Restorations must be in accordance with Marrickville Council's Restorations Code. Failure to obtain a road opening permit for any such works will incur an additional charge for unauthorised works as noted in Council's adopted fees and charges.
Reason: To ensure that all restoration works are in accordance with Council's Code.
15. The person acting on this consent must provide details of the means to secure the site and to protect the public from the construction works. Where the means of securing the site involves the erection of fencing or a hoarding on Council's footpath or road reserve the person acting on this consent must submit a hoarding application and pay all relevant fees before commencement of works.
Reason: To secure the site and to maintain public safety
16. A detailed Traffic Management Plan to cater for construction traffic must be submitted to and approved by Crown Certifying Authority before commencement of works. Details must include proposed truck parking areas, construction zones, crane usage, truck routes etc.
Reason: To ensure construction traffic does not unduly interfere with vehicular or pedestrian traffic, or the amenity of the area.
17. The person acting on this consent must submit a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site before commencement of works.
Reason: To ensure the existing condition of Council's infrastructure is clearly documented.

BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

For the purpose of interpreting this consent the Certifying Authority (Council or an Accredited Certifier) is that person appointed to issue a Construction Certificate.

18. Section 94 Contribution

A levy of \$114,000.00 has been assessed as the contribution for the development under Section 94A of the Environmental Planning and Assessment Act 1979 and Marrickville Section 94/94A Contributions Plan 2014 (a copy of which may be inspected at the offices of the Council).

The Section 94A Levy referred to above is based on the estimated cost of the proposed development at time of lodgement of the application indexed quarterly in accordance with Marrickville Section 94/94A Contributions Plan 2014.

The Section 94A levy (as adjusted) must be paid to the Council **in cash or by unendorsed bank cheque (from an Australian Bank only) or EFTPOS (Debit only) or credit card*** before the issue of a Construction Certificate. Under Marrickville Section 94/94A Contributions Plan 2014 payment of Section 94A levies **CANNOT** be made by Personal Cheque or Company Cheque.

*NB A 1% credit card transaction fee applies to all credit card transactions.

(LEVY PAYMENT REFERENCE NO. DC001856)

NOTE: Under Marrickville Section 94/94A Contributions Plan 2014, the proposed cost of carrying out development is adjusted quarterly at time of payment of the levy in line with the *Consumer Price Index: All Groups Index Number for Sydney* provided by the Australian Bureau of Statistics.

Reason: To ensure that the approved development makes a contribution towards the provision, extension or augmentation of public amenities and public services in the area.

19. Evidence of payment of the building and construction industry Long Service Leave Scheme must be submitted to the Crown Certifying Authority's satisfaction before the issue of a Construction Certificate. (The required payment can be made at the Council Offices).

NOTE: The required payment is based on the estimated cost of building and construction works and the long service levy rate, set by the Long Service Payments Corporation. The rate set by the Long Service Payments Corporation is currently of 0.35% of the cost of the building and construction work.

For more information on how to calculate the amount payable and where payments can be made contact the Long Services Payments Corporation.

http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm

Reason: To ensure that the required levy is paid in accordance with the Building and Construction Industry Long Service Payments Act.

20. Before the issue of a Crown Certificate an amended plan must be submitted to the Certifying Authority's Satisfaction indicating the following:

a) The provision of 4 accessible parking spaces within the site in accordance with the standards contained within Part 2.10 of Marrickville Development Control Plan 2011 – Parking. All accessible car spaces must be provided and marked as disabled car parking spaces.

Reason: To ensure the adequate provision of car parking for people with disabilities.

21. The person acting on this consent must provide to Council a bond in the amount of \$16,605.00 and pay the related Section 138 (Roads Act) inspection fee of \$206.00 (GST inclusive) before the issue of a Crown Certificate to ensure the proper completion of the footpath and/or vehicular crossing works required as a result of this development.

Reason: To provide security for the proper completion of the footpath and/or vehicular crossing works.

22. Before the issue of a Crown Certificate the owner or builder must sign a written undertaking that they must be responsible for the full cost of repairs to footpath, kerb and gutter, or other Council property damaged as a result of construction of the proposed development. Council may utilise part or all of any Building Security Deposit (B.S.D.) or recover in any court of competent jurisdiction, any costs to Council for such repairs.

Reason: To ensure that all damages arising from the building works are repaired at no cost to Council.

23. Prior to the issue of a Crown Certificate, evidence is to be submitted to Crown Certifying Authority's satisfaction demonstrating that a suitably qualified Conservation Architect or Heritage Consultant has been engaged to advise the person acting on this consent on any heritage issues arising during construction.
- Reason: To protect the integrity of the Heritage Item.

SITE WORKS

24. All excavation, demolition, construction and deliveries to the site necessary for the carrying out of development must be restricted to between 7.00am to 5.30pm Mondays to Saturdays excluding Public Holidays. Notwithstanding the above, no work is to be carried out on any Saturday that falls adjacent to a Public Holiday.
- Reason: To minimise the effect of the development during the construction period on the amenity of the surrounding neighbourhood.
25. During any construction works and activities, no injury must be caused to the amenity of the neighbourhood by the emission of noise, smoke, smell, vibration, gases, vapours, odours, dust, particular matter, or other impurities which are a nuisance or injurious or dangerous or prejudicial to health, the exposure to view of any unsightly matter or otherwise.
- Reason: To ensure the construction of the development does not affect the amenity of the neighbourhood.
26. The area surrounding the building work must be reinstated to Council's satisfaction upon completion of the work.
- Reason: To ensure that the area surrounding the building work is satisfactorily reinstated.
27. The placing of any materials on Council's footpath or roadway is prohibited, without the consent of Council. The placement of waste storage containers in a public place requires Council approval and must comply with Council's Policy – 'Placement of Waste Storage Containers in a Public Place'.
- Reason: To ensure the public ways are not obstructed and the placement of waste storage containers in a public place are not dangerous to the public.
28. All demolition work must be carried out in accordance with the following:
- compliance with the requirements of Australian Standard AS 2601 'The demolition of structures' with specific reference to health and safety of the public, health and safety of the site personnel, protection of adjoining buildings and protection of the immediate environment;
 - all works involving the demolition, removal, transport and disposal of asbestos cement must be carried out in accordance with the 'Worksafe Code of Practice for Removal of Asbestos' and the requirements of the WorkCover Authority of NSW and the Department of Environment, Climate Change and Water;
 - all building materials arising from the demolition must be disposed of in an approved manner in accordance with Part 2.21 of Marrickville Development Control Plan 2011 – Site Facilities and Waste Management and any applicable requirements of the Department of Environment, Climate Change and Water;
 - sanitary drainage, stormwater drainage, water, electricity and telecommunications must be disconnected in accordance with the requirements of the responsible authorities;
 - the generation of dust and noise on the site must be controlled;
 - the site must be secured to prohibit unauthorised entry;
 - suitable provision must be made to clean the wheels and bodies of all vehicles leaving the site to prevent the tracking of debris and soil onto the public way;

- h) all trucks and vehicles associated with the demolition, including those delivering to or removing material from the site, must only have access to the site during work hours nominated by Council and all loads must be covered;
- i) all vehicles taking materials from the site must be loaded wholly within the property unless otherwise permitted by Council;
- j) no waste collection skips, spoil, excavation or demolition material from the site must be deposited on the public road, footpath, public place or Council owned property without the approval of Council; and
- k) the person acting on this consent must ensure that all contractors and sub-contractors associated with the demolition are fully aware of these requirements.

Reason: To ensure that the demolition work is carried out safely and impacts on the surrounding area are minimised.

29. The works are required to be inspected at critical stages of construction, by the Crown Certifying Authority or if the CCA agrees, by another Certifying Authority. The last inspection can only be carried out by the CCA. The critical stages of construction are:

- a) At the commencement of the building work;
- b) After excavation for, and prior to the placement of, any footings;
- c) Prior to pouring any in-situ reinforced concrete building element;
- d) Prior to covering of the framework for any floor, wall, roof or other building element;
- e) Prior to covering waterproofing in any wet areas;
- f) Prior to covering any stormwater drainage connections; and
- g) After the building work has been completed and prior to any occupation certificate being issued in relation to the building.

You are advised to liaise with your CCA to establish if any additional inspections are required.

Reason: To ensure the building work is carried out in accordance with the Environmental Planning and Assessment Regulations and the National Construction Code (Building Code of Australia).

30. If the development involves an excavation that extends below the level of the base of the footings of a building on the adjoining allotments, including a public place such as a footway and roadway, the person acting on the consent, at their own expense must:
- a) protect and support the adjoining premises from possible damage from the excavation, and
 - b) where necessary, underpin the adjoining premises to prevent any such damage. Where the underpinning works are not "exempt development", all required consents must be obtained prior to the required works commencing; and
 - c) at least 7 days notice is given to the owners of the adjoining land of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

Where a dilapidation report has not been prepared on any building adjacent to the excavation, the person acting on this consent is responsible for arranging and meeting the cost of a dilapidation report prepared by a suitably qualified person. The report must be submitted to and accepted by the Crown Certifying Authority before works continue on site, if the consent of the adjoining property owner can be obtained.

Copies of all letter/s that have been sent via registered mail to the adjoining property owner and copies of any responses received must be forwarded to the CCA before work commences.

Reason: To ensure that adjoining buildings are preserved, supported and the condition of the buildings on the adjoining property catalogued for future reference in the event that any damage is caused during work on site.

31. All vehicles carrying materials, to or from the site, must have their loads covered with tarpaulins or similar covers.

Reason: To ensure dust and other particles are not blown from vehicles associated with the use.

32. Satisfactory methods and/or devices must be employed on the site to prevent the tracking of mud/dirt onto the surrounding streets from vehicles leaving the site.

Reason: To prevent soil particles from being tracked and deposited onto the streets surrounding the site.

33. A certificate of survey from a registered land surveyor must be submitted to the Crown Certifying Authority upon excavation of the footings and before the pouring of the concrete to verify that the structure will not encroach on the allotment boundaries.

Reason: To ensure all works are contained within the boundaries of the allotment.

34. All roof and surface stormwater from the site any catchment external to the site that presently drains to it, must be collected in a system of pits and pipelines/channels and major storm event surface flow paths and must be discharged to a Council controlled stormwater drainage system in accordance with the requirements of Marrickville Council Stormwater and On Site Detention Code.

Reason: To provide for adequate site drainage.

35. A clear unobstructed path of travel of not less than 1,000mm must be provided to all exits and paths of travel to exits.

Reason: To provide safe egress in case of fire or other emergency.

BEFORE OCCUPATION OF THE BUILDING

36. You must obtain an Occupation Certificate from your Crown Certifying Authority before you occupy or use the building. The CCA must notify the Council of the determination of the Occupation Certificate and forward the following documents to Council within 2 days of the date of the Certificate being determined:

- a) A copy of the determination;
- b) Copies of any documents that were lodged with the Occupation Certificate application;
- c) A copy of Occupation Certificate, if it was issued;
- d) A copy of the record of all critical stage inspections and any other inspection required by the CCA;
- e) A copy of any missed inspections; and
- f) A copy of any compliance certificate and any other documentary evidence relied upon in issuing the Occupation Certificate.

Reason: To comply with the provisions of the Environmental Planning and Assessment Regulations.

37. Occupation of the building must not be permitted until such time as:

- a) All preconditions to the issue of an Occupation Certificate specified in this development consent have been met;

- b) The building owner obtains a Final Fire Safety Certificate certifying that the fire safety measures have been installed in the building and perform to the performance standards listed in the Fire Safety Schedule; and
- c) An Occupation Certificate has been issued.

Reason: To comply with the provisions of the Environmental Planning and Assessment Act.

38. The owner of the premises, as soon as practicable after the Final Fire Safety Certificate is issued, must:

- a) Forward a copy of the Final Safety Certificate and the current Fire Safety Schedule to the Commissioner of Fire and Rescue New South Wales and the Council; and
- b) Display a copy of the Final Safety Certificate and Fire Safety Schedule in a prominent position in the building (i.e. adjacent the entry or any fire indicator panel).

Every 12 months after the Final Fire Safety Certificate is issued the owner must obtain an Annual Fire Safety Certificate for each of the Fire Safety Measures listed in the Schedule. The Annual Fire Safety Certificate must be forwarded to the Commissioner and the Council and displayed in a prominent position in the building.

Reason: To ensure compliance with the relevant provisions of the Environmental Planning and Assessment Regulations and Building Legislation Amendment (Quality of Construction) Act.

39. All works required to be carried out in connection with drainage, crossings, alterations to kerb and guttering, footpaths and roads resulting from the development shall be completed before the issue of the Occupation Certificate. Works shall be in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications".

Reason: To ensure person acting on this consent completes all required work.

40. The existing concrete footpath in West Street from the south eastern boundary of the car park to the commencement of Block "A" must be reconstructed as a half width concrete footpath and nature strip in accordance with Council's Standard crossing and footpath specifications and Council's Public Domain Design Guide, at no cost to Council and before the issue of the Occupation Certificate.

Reason: To provide a safe and suitable means of public road pedestrian access to the development and to ensure that the amenity of the area is in keeping with the standard of the development.

41. The existing stone kerb adjacent to the site is of local heritage value and is to be preserved at no cost to Council. Any damage to the stone kerb will require the replacement of the damaged individual stone units before the issue of the Occupation Certificate.

Reason: To ensure that items of local heritage value are preserved.

42. No encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever shall not be permitted. Any encroachments on to Council road or footpath resulting from the building works will be required to be removed before the issue of the Occupation Certificate.

Reason: To ensure there is no encroachment onto Council's Road.

43. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development shall be at no cost to Council and undertaken before the issue of the Occupation Certificate.

Reason: To ensure all costs for the adjustment/augmentation of services arising as a result of the redevelopment are at no cost to Council.

44. Before the issue of the Occupation Certificate the person acting on this consent must obtain from Council a compliance Certificate stating that all Road, Footpath and Public Domain Works required to be undertaken as a result of this development have been completed satisfactorily and in accordance with Council approved plans and specifications.

Reason: To ensure that all Road, Footpath and Drainage Works required to be undertaken as a result of this development have been completed satisfactorily.

45. Prior to the issue of an Occupation Certificate, evidence is to be submitted to Council's satisfaction from the Certifying Authority indicating that any recommendations that were made by the Conservation Architect or Heritage Consultant have been implemented into the development.

Reason: To protect the integrity of the Heritage item.


ADVISORY NOTES

- Contact "Dial Before You Dig" before commencing any building activity on the site.
- The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for 'Construction of a Vehicular Crossing & Civil Works' form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.
- A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out.
- Useful Contacts

BASIX Information  1300 650 908 weekdays 2:00pm - 5:00pm
www.basix.nsw.gov.au

Department of Fair Trading  13 32 20
www.fairtrading.nsw.gov.au
Enquiries relating to Owner Builder Permits and Home Warranty Insurance.

Dial Before You Dig  1100
www.dialbeforeyoudig.com.au

Landcom  9841 8660
To purchase copies of Volume One of "Soils and Construction"

Long Service Payments Corporation  131441
www.lspc.nsw.gov.au

Marrickville Council  9335 2222
www.marrickville.nsw.gov.au
Copies of all Council documents and application forms can be found on the web site.

NSW Food Authority  1300 552 406
www.foodnotify.nsw.gov.au

NSW Government	www.nsw.gov.au/fibro www.diysafe.nsw.gov.au Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	☎ 131 555 www.environment.nsw.gov.au
Sydney Water	☎ 13 20 92 www.sydneywater.com.au
Waste Service - SITA Environmental Solutions	☎ 1300 651 116 www.wasteservice.nsw.gov.au
Water Efficiency Labelling and Standards (WELS)	www.waterrating.gov.au
WorkCover Authority of NSW	☎ 13 10 50 www.workcover.nsw.gov.au Enquiries relating to work safety and asbestos removal and disposal.