

<b>Sydney West Planning Panel Ref. No.:</b>	2015SYW070
<b>DA No.:</b>	DA16/0787
<b>Proposed Development:</b>	Two (2) Storey School Building incorporating 16 Classrooms & Open Learning Areas & Associated Works including Demolition, Landscaping & Reconfiguration of Car Parking Area
<b>Property Address:</b>	6 Endeavour Avenue, St Clair
<b>Owner:</b>	The Minister For Education & Training
<b>Applicant:</b>	NSW Department of Education
<b>Property Description:</b>	Lot 1 DP 601023
<b>Date Received:</b>	3 August 2016
<b>Assessing Officer:</b>	Lauren van Etten, Environmental Planner
<b>Category of Development:</b>	Crown Development with Capital Investment Value > \$5 Million = \$12.209 Million

## Assessment Report

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### Executive Summary

Development Application No. DA16/078 was lodged with Council by the Department of Education for alterations and additions to an existing school at Lot 1, DP 601023, No. 6 Endeavour Avenue, St Clair.

The subject site is zoned R2 – Low Density Residential under the Penrith Local Environmental Plan (LEP) 2010. Educational establishments are prohibited in the R2 zone, however Clause 28 of the State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP) permits 'educational establishments' with consent. The SEPP overrides the LEP in the event of an inconsistency and as such the proposal is permissible with consent.

The proposed development is Crown Development with a capital investment value in excess of \$5 million. As such, the Sydney West Planning Panel Policy has the function of determining the application in accordance with Section 23H of the Environmental Planning and Assessment Act 1979 and Section 18 of the Greater Sydney Commission Act 2015.

The proposed development has been advertised in the local newspaper and notified to the owners and occupiers of adjoining and nearby properties. A total of 71 property owners and occupiers were notified in the surrounding area and invited to make a submission during the exhibition period from 19 August 2016 to 2 September 2016. No submissions were received in relation to the proposal.

An assessment of the proposed development under Sections 23G, 79C, and 89 of the Environmental Planning and Assessment Act 1979 has been undertaken and the following key issues emerged as a result of this assessment process:

- Landscape design and tree removal;
- Slope and Accessibility;
- Overshadowing;
- Acoustic Impacts;
- Compliance with the Educational Facilities Standards and Guidelines; and
- Stormwater management.

These matters are discussed in detail in this report.

The proposed development is in accordance with the relevant provisions of the Environmental Planning Instruments and Development Control Plan applicable to the subject site and is unlikely to have an adverse impact on the surrounding environment. The proposed development will provide the delivery of educational services and facilities that were lost when the former building (which contained a number of classrooms and the library) was destroyed by fire in June 2014. The proposed alterations and additions do not involve an increase in the number of students enrolled nor staff employed at the school. There are 73 staff employed as part of the existing operations of the school and approximately 800 students enrolled. The site is suitable for the proposed development and the proposal is considered to be in the public interest. As a result, this report recommends that the application at the school be approved, subject to recommended conditions of consent.

There are 7 appendices to this report, as detailed below.

- Appendix 1 – Recommended Conditions of Consent;
- Appendix 2 – Location Plan and Aerial View;
- Appendix 3 – Architectural Plans;
- Appendix 4 – Landscape Plan;
- Appendix 5 – Statement of Environmental Effects (including Development Control Plan Compliance Table and Clause 4.6 variation); and
- Appendix 6 – Applicant's Concurrence to Recommended Conditions of Consent.

## **Background**

On June 29, 2014, the main building, including classrooms and the library, was burnt down by a fire.

A pre-lodgement meeting was held with Council officers on 7 April 2016 and the issues raised at the meeting have been addressed by the applicant.

## **Site and Surrounds**

The site is located at 6 Endeavour Avenue, St Clair and is comprised of a single 8.9 hectare lot with the legal description of Lot 1 in Deposited Plan 601023, as demonstrated in the location plan and aerial view at Appendix 2.

The site is located on the southern side of Endeavour Avenue, approximately 200 metres west of the intersection of Endeavour Avenue and Bennett Road. The site consists of a comprehensive, coeducational Year 7-12 secondary school, with large areas of cleared grassed playing fields and mature native vegetation within the western and southern portion of the site.

The site sits within an area that typically contains low density housing, with complementary uses such as local shops, schools and recreational facilities. Single residential properties back directly onto the western boundaries of the site and north of Endeavour Avenue. St Clair Public School is directly south of the site with a commercial shopping centre to the east.

The site slopes at a gentle gradient from the south to the north and north-east. However, throughout the centre of the site, the natural slopes have been modified by earthworks during the previous construction of the existing buildings which levelled the land to facilitate construction.

The proposed building area is currently occupied by the sports courts and grass playing field. The proposed sports courts area is currently flat and occupied by a concrete slab, which remains from the former building and, which was substantially destroyed by a fire.

The proposed tiered landscaping area will be located between an existing hall to the north and a two-storey classroom block to the south. The majority of this area is currently occupied by the concrete slab from the former building and an unoccupied understorey.

## **The Proposed Development**

The development proposal consists of the following aspects:

- Construction of a new two storey building (innovation centre) including:
  - 16 new class rooms;
  - Staff Room;
  - Lecture Theatre;
  - Learning Common areas/resource areas and
  - Café, kitchen and bathrooms
- Reconfiguration and extension of an at-grade car park accessed from Endeavour Avenue that will accommodate pick up and drop off areas for buses and cars as well as parking for 63 vehicles.
- Construction of Sports courts located on the southern part of the existing concrete slab, where the former building was located.

- Construction of a tiered landscaped roof area located on the concrete slab above the canteen and amenities and construction of a pedestrian pathway throughout the site.

Refer to Appendix 3 for copies of the site plan and elevations which show details of the proposed works.

The following plans/documents have also accompanied the Development Application:

- Survey Plan by Surveying & Spatial Information Services;
- Architectural Plans by Peter Poulet, NSW Public Works, Government Architect's Office;
- Statement of Environmental Effects by Stuart Wilmot, NSW Public Works;
- Arborist Report by NSW Public Works;
- Traffic and Parking Assessment Report by McLaren Traffic Engineering & Road Safety Consultants;
- BCA Compliance Report by Phillip Chun, NSW Public Works;
- Stormwater Assessment and Water Sensitive Urban Design by T Perusco, NSW Public Works and Access Report;
- Landscape Plan by NBRS Architecture Landscape;
- Geotechnical Site Investigation by Peta Anderson, NSW Public Works;

## **Planning Assessment**

The proposed development has been assessed against Sections 23G, 79C and 89 of the Environmental Planning and Assessment Act 1979 (the Act) and based on this assessment, the following issues have been identified for further consideration.

### **1. Section 23G – Joint Regional Planning Panels**

Under Section 23G of the Act, a regional panel is taken to be the Council whose functions are conferred on a regional panel.

Development applications for development by a Crown Authority with a Capital Investment Value (CIV) greater than \$5 million are to be determined by the relevant regional panel. The proposed development has a CIV of \$12.209 million. The Sydney West Planning Panel Policy therefore has the function of determining the subject Development Application in accordance with Section 23G of the Environmental Planning and Assessment Act 1979 and Section 18 of the Greater Sydney Commission Act 2015.

### **2. Section 89 – Crown Developments**

The Development Application was lodged on behalf of the NSW Department of Education and Communities and therefore the proposal is defined as a Crown Development. In accordance with Section 89(1)(b) the recommended conditions of consent were provided to the applicant for their agreement. The agreement to the conditions can be found at Appendix 6 and therefore the Panel is able to determine the application including the imposition of the agreed conditions.

### **3. Section 79C(1)(a)(i) – Any Environmental Planning Instrument**

#### ***State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)***

##### ***Division 3 Educational Establishments***

Clause 28(1) states that development for the purpose of an 'educational establishment' is permitted with consent in a prescribed zone. In this case, an R2 low density residential zone is considered a prescribed zone and as a result the proposed school is therefore permissible development with consent. Clause 32(2), states that before determining a Development Application for a school the consent authority must take into consideration all relevant standards of the following State Government publications:

- (a) School Facilities Standards—Landscape Standard—Version 22 (March 2002),
- (b) Schools Facilities Standards—Design Standard (Version 1/09/2006),
- (c) Schools Facilities Standards—Specification Standard (Version 01/11/2008).

The Department of Education and Communities (DEC) has indicated that these standards are currently under a comprehensive review. As a response to Stage 1 of the review, a new system titled 'The Educational Facilities Standards and Guidelines' has been created and can be accessed via the DEC's website. The standards provide a benchmark for all new school developments.

As such, the new standards and guidelines have been taken into consideration when preparing this application and associated architectural and landscape design plans.

Initially, clarification was sought as to where the library will be provided, given it was part of the building that previously burnt down. Additional information was provided outlining that, during the design phase of the project, the design team undertook a review of current trends in the theory and practice of teaching. Clear educational principles were established for the Innovation Centre project. One of the emerging spatial trends, associated with the availability of information technology, is a move away from centralised information storage and formal reading areas (i.e. a library), with a move towards more flexible and less specialised facilities associated with learning hubs.

The Research area on the ground floor of the building will therefore function as an informal library area with books, research material, and a senior study area. However, the research area is intended to be less formal than a traditional library, and will include more flexible seating arrangements and a variety of learning opportunities to respond to these emerging trends in learning. In addition, many of the resources typically associated with a traditional library will be spread throughout the building. It is noted that the research area proposed, incorporating at least 330m<sup>2</sup> meets the minimum area required for a library, in accordance with the requirements for secondary schools rooms within

the Educational Facilities Standards and Guidelines. In this regard, and overall, the proposed facilities are considered to adequately cater to the needs of the students and meets the intent of the above policy documents.

#### *Division 17 Roads and Traffic*

Clause 104 of the SEPP states that any development that meets or exceeds the thresholds in Column 1 of the Table to Schedule 3 is required to be referred to Roads and Maritime Services (RMS) for comment. Schedule 3 states that an educational establishment that has a capacity of 50 or more students constitutes "traffic generating development". As the proposed school meets this threshold, the proposal was referred to the RMS for comment. That being said, as the proposal is for the replacement of a building lost through a fire, the RMS noted the capacity of the school as a whole will not change and they raised no objections to the proposal nor recommended conditions.

#### **State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)**

SEPP 55 aims to provide a framework for the assessment, management and remediation of contaminated land throughout the State. Clause 7 of SEPP 55 specifically prevents consent authorities from consenting to a development unless it has considered whether the land is contaminated and is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

While there is a carpark and sports courts which they intend to remove and turn into a landscaped deep soil areas and slabs, bitumen is not captured as a potentially contaminating activity in Table 1 of the Managing Land Contamination Planning Guidelines. However, to address any unexpected finds that may result from excavation, a recommended condition of consent will require that should any "unexpected finds" occur during site excavation and earthworks including, but not limited to, the identification/finding of contaminated soils, buried building materials, asbestos, odour and/or staining, works on the site are to cease immediately and Council is to be notified.

Any such "unexpected finds" shall be investigated and addressed by an appropriately qualified environmental consultant, in line with the relevant EPA Guidelines and the National Environment Protection (Assessment of Site Contamination) Measure 2013. All remediation works within the Penrith Local Government Area are considered to be Category 1 works under State Environmental Planning Policy 55-Remediation of Land. Should any contamination be found during development works and should remediation be required, development consent is to be sought from Penrith City Council before the remediation works commence and prior to the continuance of any further works as a result of this application.

Due to the historical uses of the site and considering the site has a low likelihood of contamination, subject to the aforementioned condition, the site is considered

to be suitable for the proposed development and as such the provisions of Clause 7 of SEPP 55 are considered to have been satisfied.

***Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No. 2 – 1997) (SREP 20)***

SREP 20 integrates planning with catchment management to protect the Hawkesbury-Nepean river system, requiring the impact of future land use to be considered in a regional context. The plan covers water quality and quantity, environmentally sensitive areas, riverine scenic quality, agriculture and urban and rural-residential development. It controls development that has the potential to impact on the river environment. The plan applies to all parts of the catchment in the Sydney region (15 local government areas), except for land covered by Sydney Regional Environmental Plan No. 11 - Penrith Lakes Scheme (SREP 11).

The proposal is in accordance with the general planning considerations set out in the *SREP 20* as well as relevant specific planning policies and related recommended strategies contained in *SREP 20*.

Water quality and quantity strategies were included, namely through a Water Sensitive Urban Design Strategy, incorporating 2 x 40 L rainwater tanks and associated reuse, 5 x enviropod and a vegetated bioretention swale to ensure the amount of stormwater run-off from a site and the rate at which it leaves the site does not significantly increase as a result of development and that the quality of stormwater discharge from the site will not result in adverse environmental outcomes. Council's Waterways Officer reviewed the proposal and raised no concerns.

In addition, given the earthworks proposed, a recommended condition of consent will ensure that erosion and sediment control measures are installed prior to the commencement of works on site including approved clearing of site vegetation. The erosion and sediment control measures are to be maintained in accordance with the approved erosion and sediment control plan(s) for the development and the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

Initially, this section has not been addressed as the development increases impervious area by more than 250m<sup>2</sup>, WSUD Policy requirements are triggered. Therefore it was requested to address Council's policy via a WSUD strategy and MUSIC Modelling.

The revised proposal will comply with Council's Water Sensitive Urban Design (WSUD) Policy by incorporating 2 x 40 L rainwater tanks and associated reuse, 5 x enviropod and a vegetated bioretention swale have been proposed to ensure the quality of stormwater discharge from the site will not result in adverse environmental outcomes.

The proposed development is therefore suitable and acceptable, as it complies with all the relevant stormwater management requirements and is acceptable in relation to Council's WSUD design criteria.

### ***Penrith Local Environmental Plan 2010***

#### *Clause 2.3 Permissibility*

The site is zoned R2 Low Density Residential under the Penrith Local Environmental Plan (LEP) 2010.

Educational facilities are prohibited in the R2 - Low Density Residential zone. Notwithstanding the provisions of the LEP, the proposal is permissible with consent under the Infrastructure SEPP as outlined earlier within this report. Clause 8(1) of the Infrastructure SEPP provides that *'if there is an inconsistency between this Policy and any other environmental planning instrument, whether made before or after the commencement of this Policy, this Policy prevails to the extent of the inconsistency'*. The provisions of this Clause serve to override the prohibition of educational establishments in the land use table within the Penrith LEP 2010 rendering the proposal a permissible development within the zone.

#### *Clause 2.3 Zone objectives*

The objectives of the R2 zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To promote the desired future character by ensuring that development reflects features or qualities of traditional detached dwelling houses that are surrounded by private gardens.*
- *To enhance the essential character and identity of established residential areas.*
- *To ensure a high level of residential amenity is achieved and maintained.*

The proposed school will provide facilities and services to meet the day to day needs of local residents whilst retaining the high levels of residential amenity through development that is consistent with the character of the area. More specifically, the proposal is compatible with the residential character and amenity objectives, despite the difference in scale and appearance, because of the generous setback provided to the street and the landscaping proposed. Clustered with the existing buildings on-site, the proposal reiterates the pattern of buildings and void, and maintains the established character where landscaping dominates the front setback. Therefore this proposal is consistent with the zone's objectives.

#### *Clause 4.3 Height of buildings*

The site is subject to a maximum building height of 8.5 m. The proposed development is comprised of a two storey building with a maximum height of



approximately 15.8m and as such seeks a variation to the 8.5m height limit due to the slope required to enable functional stormwater design and the slope of the land. The variation sought equates to a maximum of 86% departure from the maximum height control. This variation can be considered pursuant to Clause 4.6 - Variations to Development Standards, as discussed below.

#### *Clause 4.6 Exceptions to Development Standards*

The applicant has prepared a Clause 4.6 variation request, noting that the full request can be found at Appendix 5. The vertical distance between the ground level (existing) and the highest point of the building is 15.808m at the north-eastern end. At the southern end the building height is 6.75 metres above existing ground level (refer to Appendix 3). The percentage variation sought is approximately 86% this variation is for approximately 70% of the roof area,

Clause 4.6(2) of the LEP provides that development consent may be granted for development even though the development would contravene a development standard imposed by the LEP, or any other environmental planning instrument,

However, Clause 4.6(3) states that 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.

In accordance with Clause 4.6(3) the applicant requested that the height of buildings development standard be varied. The applicant has put forward the following key points in relation to demonstrating that compliance with the standard is unreasonable and unnecessary.

#### *"Compliance with the Standard is Unreasonable"*

*At the southern end of the height of the ground floor to the 1st floor of the proposed building is 3.6 metres and 2.7 metres for floor to ceiling height on the 1st floor. The floor to ceiling heights of the combined ground and first floor is 1.5 metres higher than a two storey residential dwelling, which is normally 4.8 metres, due to the additional height requirements to accommodate plant and equipment servicing the building. The vertical distance between the ground level (existing) and the highest point of the building at the southern end will be 6.75 metres (including roof thickness), which complies with the height requirements (Refer to Figure 6-1).*

*Starting at the southern end, the roof height inclines by 2 and 5 degrees for the length of the building, which is approximately 75.4 metres long. The incline of the roof cannot be reduced without reducing the effectiveness of rainwater runoff and collection. The roof incline has the effect of increasing the overall building*

*height by about 5.35 metres at the northern end. At the same time the slope of the land falls by approximately 3.3 metres.*

*Therefore, the vertical distance between the ground level (existing) and the highest point of the building at the northern eastern end is 15.808 metres due to the declining slope of the land and the opposing incline of the roof. Reversing the incline of the roof so that the roof drains in a south to north direction with a 5.25 degree roof slope would reduce the maximum building height to 8.5 metres. However, this would require the rainwater tanks to be located at the front of the building and installation of a pump to pump rainwater upslope for reuse. Locating the rainwater tanks at the front of the building would have an undesirable visual impact on the aesthetic appearance of this signature building and would financially burden the school with additional ongoing maintenance costs to maintain the pumps. Sloping the roof towards the entry point would also require designing the building with split levels. Split-level design would require construction of stairs and ramps between each of the levels. The construction of stairs and ramps to accommodate the circulation of 420 students would increase the footprint and cost of the building or require reduction in the size of learning areas. Reversing the incline of the roof and creation of split level design would affect the functionality and feasibility of the building and would severely affect the expression of the building and its signature statement.*

*Reorientating the building in an east west direction was also considered as an alternative design. Construction of the building across the slope would possibly reduce the height of the building to comply with height requirements. However, reorientating the building would mean the courtyard would no longer be created, require removal of more Cumberland Plain Woodland and increase the length of building visible from the street. It is considered unreasonable for the school building to comply with a building height intended for residential dwellings when, in this particular case, compliance would compromise the strong visual statement of the building design, affect the functional purpose of the building and result in additional environmental impacts.*

#### *Compliance with the Standard is Unnecessary*

*Low density residential dwellings are located to the north, south and west of the school. A shopping centre is located east and sports fields to the northeast of the school. The proposed building is located approximately 50 metres from the nearest adjoining property and is setback over 26m from the street front and screened by existing trees. The setback from the street and adjoining residential dwellings provides the building with its own visual curtilage that allows interpretation and expression of the building within the confines of its own school setting when viewed from the street. The buffer provided between adjoining residents and the street front reduces the visual impact of the building on the surrounding residential dwellings. In addition, the building setback avoids any overshadowing of the adjoining residential building and would not obstruct any significant views.”*

### Sufficient Environmental Planning Grounds

*In the circumstances of the case, there are sufficient planning grounds to justify contravening the development standard being:*

- *The proposal satisfies the objectives of the R2 Low Density Residential Zone and the objectives of the building height standards as described in Section 6.3.3 below;*
- *The non-compliance with the standard does not contribute to adverse environmental impacts in terms of overshadowing, visual impacts or view loss;*
- *The setback from the street and adjoining residential dwellings provides the building with its own visual setting when viewed from the street and does not adversely affect the character with the surrounding residential development;*
- *The proposed development complies with the intent of the controls, contained in the Penrith Development Control Plan 2014;*
- *The variation is specific to the functional purpose of the Innovation Centre and approval to exceed the building height would not establish a precedent for other development within the R2 - Low Density Residential Zone;*
- *The proposed building height exceeds the 12 metre height standard permissible for educational facilities under the complying development provisions of the ISEPP (cl31A(4)); and*
- *The development as proposed is consistent with the provisions of orderly and economic development and will provide signature learning centre for St Claire School and the local community.”*

#### **Comment:**

Strict compliance is considered unreasonable as it would affect the functional purpose of the building, result in adverse impacts and compromise the architectural merit and presentation of the development.

Strict compliance is considered unnecessary because the proposed landscaping and setbacks ensures the building does not result in adverse visual impacts nor overshadow adjoining buildings or residential properties.

The height of the structure adds to the signature style of the building, a centre to the school within its own context, which enhances the identity of the school, in not only compensating for what was lost, but providing a better outcome that enhances the identity of the school, without adverse impacts.

The environmental planning grounds put forward are supported and it is considered that as per the submitted Clause 4.6 variations request submitted that compliance with the building height standard would be unreasonable and unnecessary in this instance.

### *Clause 5.9 Preservation of Trees or Vegetation*

The arborist report indicates 46 trees will have to be removed to construct the car park and building. Originally the landscape plan detail was insufficient. A detailed landscape plan was then requested to identify the species lists of the proposed replacement trees and shrubs, including at least 45 replacement trees.

The amended landscape plan, which includes a mix of mostly native species, was reviewed by Council's Tree Management Officer who raised no objection subject to conditions of consent. It is noted that the existing trees were planted (not remnants) and the alterations and additions could not be undertaken without some tree removal. Importantly, many of the existing trees are also retained within the school grounds and overall, the proposal will preserve the amenity of the area.

### *Clause 7.1 Earthworks*

At the highest point of fill, the floor level of the landscape tier area will be 3.13 m above the existing ground level. Despite this significant level change the works are considered to be acceptable given that the landscaped area will replace the existing vacant understorey and exposed concrete slab where the two storey building once stood. Therefore, the finished ground levels, at the highest tier, will be consistent with the finished level of the existing slab to the south-east, which is to be utilised as basketball courts, and the new proposed building and access way. In addition, the tiered landscaped area is setback 46 m from the northern boundary (Endeavour Avenue) and 190 m from the eastern adjoining residential boundary. At these setbacks the landscaped area is not visible from the street either.

The earthworks will be achieved primarily through the regrading of the site through the transportation of material from the western section of the site where 'cutting' is proposed to the landscaped section of the site where filling is proposed. Recommended conditions of consent will ensure that any fill material brought on site is subject to a validation certificate and that any material taken off site is disposed of in accordance with Environment Protection Authority (EPA) requirements.

Given that the subject site represents a high point in relation to the surrounding topography, it is not considered that there will be any adverse impacts on existing drainage corridors especially given the significant stormwater catchment infrastructure associated with the proposed works.

The site is not identified as having any heritage value or the potential for the development to disturb any relics.

### *Clause 7.4 Sustainable development*

The proposed development incorporates principles of sustainable development through the following measures:

- Rainwater harvesting and re-use for landscaping;
- Low energy lighting fixtures;
- 4 x Solar Panels for Hot Water Heating on the roof;
- Selection of construction materials based on minimised environmental impact;
- Orientation of buildings and play areas based on solar access;

Additionally, under Council's Development Control Plan, buildings not covered by BASIX requirements are required to:

- a) Demonstrate minimum standards defined by the Water Efficiency Labelling and Standards (WELS) Scheme. Minimum WELS ratings are 4 star dual flush toilets, 3 star showerheads, 4 star taps (other than bath outlets and garden taps) and 3 star urinals. Water efficient washing machines and dishwashers are to be used wherever possible;
- b) To install rainwater tanks to meet 80% of non-potable demand including outdoor use, toilets, and laundry.

A recommended condition of consent is proposed to ensure compliance with these requirements.

### **3. Section 79C(1)(a)(iii) – Any Development Control Plan**

#### ***Penrith Development Control Plan 2014***

The proposed development is generally in accordance with the relevant provisions of Penrith Development Control Plan 2014 as set out in the DCP compliance table at Appendix 5.

### **4. Section 79C(1)(a)(iv) – The Regulations**

The proposal has been assessed having regard to the Environmental Planning and Assessment Regulations 2000 where applicable as outlined below.

#### ***Fire Safety***

Under Part 9 of the Environmental Planning and Assessment Regulation 2000 owners of buildings must provide the FRNSW Commissioner with a copy of the Fire Safety Certificate for the building (along with the current Fire Safety Schedule). The Fire Safety Certificate is issued when essential fire safety measures have been assessed by a qualified person as being capable of performing to the standard defined by the Schedule. A recommended condition of consent is proposed to ensure that this occurs on an annual basis.

#### ***Prescribed Conditions***

The relevant prescribed conditions of the Regulations, such as the requirement for compliance with the BCA are recommended as conditions of consent where applicable.

### *Advertising and Notification*

Advertising and neighbour notification were carried out in accordance with the requirements of the Regulations being in accordance with Penrith DCP 2014.

### *Clause 92 - Additional Matters*

All proposed demolition works are required to be undertaken in accordance with the provisions of AS 2601 which is addressed by way of recommended conditions of consent.

## **6. Section 79C(1)(b) – The Likely Impacts of the Development**

### ***Site Design, Context and Setting***

The proposed development has been designed to be compatible with surrounding development in terms of built form and external building materials and finishes. The proposed development maintains sufficient buffer distances to adjoining residential properties and will not pose any adverse impact on existing or future surrounding land uses.

The proposed landscape works will provide for embellishment of the site with suitable ground covers, shrubs and trees which, at maturity, will complement the scale, design and function of the development as well as providing for a buffer zone between all adjoining residential boundaries.

The built form of the proposal is considered to be compatible with the surrounding and adjacent land uses considering its two storey design and generous setbacks from boundaries. Accordingly it is not considered to have any adverse impact on the visual amenity of the area. Parking areas do not dominate the streetscape and are appropriately screened by landscaping. The proposal demonstrates high quality design with appropriate use of colours, interesting architectural elements and a variety of finishes.

### ***Natural Environment – Flora and Fauna***

The site is not identified as containing any Threatened Species or Endangered Ecological Communities.

An arborist report prepared by NSW Public Works has accompanied the application. This report details that of the 49 trees that were inspected, the majority of the trees on the site are not indigenous to the locality and range from good to poor health. While three trees were identified as remnants of Shale Plains Woodlands, which is part of an Endangered Ecological Community, they are unaffected by the proposal and will be retained and protected.

In total 46 trees will require removal. All trees that require retention will be protected in accordance with the recommendations contained in this report. Compensatory tree planting is to be provided elsewhere on the site.

## ***Accessibility***

The application has been designed to respond to the needs of students, all of which will have some form of disability. As indicated on the submitted plans, careful consideration has been given to the layout and planning of the school to ensure that ramp grades are accessible and there are substantial numbers of accessible sanitary facilities.

The application has been accompanied by an assessment of Building Code of Australia (BCA) compliance and an appraisal of accessibility, both prepared by Phillip Chun Building Code Consulting. The report concludes that subject to detailed design, the proposal will provide equitable access for people with disabilities. Concern was raised by Council in relation to direct access for people with a disability from the proposed building to all of the proposed open space to the immediate east of the building.

Access for people with a disability will be provided to the proposed tiered outdoor recreational areas and sports courts to the east via a 1:20 walkway along the eastern side of the building. However, this does not grant access to every tier of landscaping. Therefore, the plan was further amended to ensure a ramp is provided to the landscaping tier that was previously inaccessible. As a result of this amendment the proposal is now deemed to be suitable having regard to accessibility requirements.

## ***Access, Parking and Traffic***

The application has been accompanied by a Traffic and Parking Assessment Report prepared by McLaren Traffic Engineering & Road Safety Consultants which concludes that the proposed vehicle access and car parking arrangements are satisfactory.

Vehicular access to the site is via a one way driveway with separate entrance and exit points from Endeavour Avenue, improving upon the current two-way single-width driveway access points to the car parking areas. The proposed reconfiguration includes the construction of 63 car parking spaces (including 1 accessible space) for staff and visitors, which is an increase of 4 spaces from the existing parking provision.

There is no increase in student or staff numbers and the surrounding street networks provide ample parking opportunities. The traffic flows generated by the development can be accommodated by the surrounding road network with existing intersections retaining the same level of service upon completion of the development as staff and student numbers are not changing.

Penrith DCP 2014 requires accessible parking to comply with AS 2890.6 and the BCA. A secondary school is a Class 9b building and as such requires the provision of 1 accessible parking space per 100 parking spaces provided, or part thereof. Therefore, the site requires one (1) accessible space which has been provided as per AS 2890.6: 2009 AND as 4288 design requirements.

Council's Traffic Engineer is satisfied with the proposed access; parking and traffic related aspects of the proposal subject to recommended conditions.

### ***Safety, Security and Crime Prevention***

The development has been designed with direct surveillance of the street frontage and the main play area within the school. The layout of the development also provides lines of sight between public and private spaces which will be maintained during the night by a suitable lighting scheme. The proposed works will assist in improving the presentation of the site, which will improve the amenity, casual surveillance and ultimately public safety and sense of security within the site and surrounding area.

The application was also referred to Council's Community Safety Officer with no concerns raised to the proposal.

### ***Noise***

The outdoor play areas have been designed and located to achieve the best possible acoustic outcome, being centrally located within the development and shielded from adjoining residences by other school structures.

That being said, in terms of the proposed development's construction phase, an analysis of such noise at the nearest residential noise receptors was predicted. Construction noise may exceed the recommended maximum day time goal of 50 dBA on occasions when all pieces of equipment are operating, in accordance with AS 2436. The contractor therefore will be required to prepare a noise management plan to minimise noise on residents and students during the 13 month construction period. This is addressed through recommended conditions of consent.

In addition, the construction works will be required to adhere to the noise control and regulation measures in accordance with AS 2436:2010 "Guide to noise control on construction, maintenance and demolition sites". Furthermore, the works will also require compliance EPA Construction Noise Guidelines which require the proponent to take into consideration and employ all reasonable and feasible measures to ensure that the impact on noise receivers is minimised. These requirements have been included as recommended conditions of consent.

The application stated that a noise assessment of the operational phase of the proposed centre is not required given there will be no increase in the number of students or staff. The Educational School Facilities Standards and Guidelines include a technical design guide which covers the Department's performance requirements for acoustics including internal noise levels, room acoustics (principal reverberation time) and room to room noise control. The EFSG sets performance requirements for the above. The detailed design will incorporate these requirements.



Council's Environmental Management Officer reviewed the submitted information and raise no objections subject to conditions of consent.

### ***Stormwater Management***

Initially, this section has not been addressed as the development increases impervious area by more than 250m<sup>2</sup>, WSUD Policy requirements are triggered. Therefore it was requested to address Council's policy via a WSUD strategy and MUSIC Modelling.

The revised proposal will comply with Council's Water Sensitive Urban Design (WSUD) Policy by incorporating 2 x 40 L rainwater tanks and associated reuse, 5 x enviropod and a vegetated bio-retention swale have been proposed to ensure the quality of stormwater discharge from the site will not result in adverse environmental outcomes.

The proposed development is therefore suitable and acceptable, as it complies with all the relevant stormwater management requirements and is acceptable in relation to Council's WSUD design criteria.

### **7. Section 79C(1)(c) – The Suitability of the Site for the Development**

The subject site is deemed suitable for the development for the following reasons:

- The use is permissible with consent and consistent with the zone objectives.
- The use is compatible with surrounding/adjoining land uses.
- Stormwater from the site is able to drain to Council's satisfaction.
- The site is adequately serviced by transport, water and sewer infrastructure which has the capacity to cope with any increase in demand associated with the proposed development.

### **8. Section 79C(1)(d) – Any Submissions made in relation to the Development**

#### ***Public Submissions***

The proposed development was advertised in the local newspaper and notified to the owners and occupiers of adjoining and nearby properties pursuant to the requirements of the EP&A Regulations. Affected property owners and occupiers were notified in the surrounding area and invited to make a submission on the proposal during the exhibition period from 19 August to 2 September 2016. In response, no submissions were received.

### *Internal Referral Comments*

The table below summarises the results of internal referrals in relation to the proposal.

<b>Referrals</b>	<b>Comments</b>
Building Surveyor	No objection, subject to conditions.
Development Engineer	No objection, subject to conditions.
Senior Traffic Engineer	No objection, subject to conditions.
Environmental Health Officer – Public Health	No objection, subject to conditions.
Senior Water Management Officer	No objection, subject to conditions.
Community Safety Coordinator	No objection, subject to conditions.
Tree Management Officer	No objection.
Senior Social Planner	No objection, subject to conditions.

## **9. Section 79C(1)(e) – The Public Interest**

The site is suitable for the proposed development. The proposed development is permissible with consent and the proposal meets the aims and objectives of the relevant environmental planning instruments. The matters raised in the public submissions have been considered and addressed. External agencies including the RMS have been consulted and raised no objections. The development proposal will provide for significant public benefit in terms of delivering a state of the art facility catering for the needs of students. For these reasons the proposal is in the public interest.

### **Section 94 Contributions**

The proposed development does not trigger the levying of any contributions under any of the applicable Section 94 Contributions Plans.

### **Conclusion**

The proposed development is in accordance with the relevant provisions of the Environmental Planning Instruments and Development Control Plan pertaining to the land. The proposed development is unlikely to have a negative impact on the surrounding environment. The proposed development has been assessed against the relevant heads of consideration contained in Sections 23G, 79C and 89 of the Environmental Planning and Assessment Act 1979 and has been found to be satisfactory. The site is suitable for the proposed development and the proposal is in the public interest. The proposal is therefore worthy of support.

## **Recommendation**

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That:

1. Development Application No. DA16/0787 for Two (2) Storey School Building incorporating 16 Classrooms & Open Learning Areas & Associated Works including Demolition, Landscaping & Reconfiguration of Car Parking Areas at 6 Endeavour Avenue, St Clair be approved subject to the recommended conditions outlined in Appendix 1.

## **Appendices**

- Appendix 1 – Recommended Conditions of Consent;
- Appendix 2 – Location Plan and Aerial View;
- Appendix 3 – Architectural Plans;
- Appendix 4 – Landscape Plan;
- Appendix 5 – Statement of Environmental Effects (including Development Control Plan Compliance Table and Clause 4.6 variation); and
- Appendix 6 – Applicant's Concurrence to Recommended Conditions of Consent.