

SYDNEY NORTH PLANNING PANEL

JRPP No	2017SNH058 DA
DA Number	DA214/2017
Local Government Area	North Sydney Council
Proposed Development	Change of use from Crows Nest TAFE to Cammeraygal High School Senior campus, refurbishment of existing building, construction of multi-purpose hall, outdoor covered area, ESD upgrades with solar panels, removal of 60 car spaces, new security fencing.
Street Address	149 West Street CROWS NEST NSW 2065
Applicant	The NSW Department of Education C/O Urbis P/L
Owner	The NSW Department of Education
Number of Submissions	Fifty-eight (58)
Regional Development Criteria (Schedule 4A of the Act)	Capital Investment Value (CIV) exceeds \$5 m - Crown Development
List of All Relevant s79C(1)(a) Matters	Environmental Planning & Assessment Act 1979 Disability Discrimination Act 1992 SEPP (Educational Establishments and Child Care Facilities) 2017 SEPP 64 (Advertising and Signage) SEPP (Infrastructure) 2007 SEPP 55 - Contaminated Lands SREP (Sydney Harbour Catchment) 2005 North Sydney LEP 2013 North Sydney DCP 2013
List all documents submitted with this report for the panel's consideration	• Revision C Plans and Elevations – AR DA 0000 – AR DA 7017 prepared by TKD Architects, dated 9 June 2017 and lodged 23 June 2017 • Revision D Amending/additional plans AR DA 1000, AR DA 1001, AR DA 2001, AR DA 3001, AR DA 3002, AR DA 4001 prepared by TKD Architects, dated 08 August 2017 and lodged 16 August 2017 • Landscaping Plan suite ID 16573 Revision A DA Package 001 prepared by Context • Acoustic Report ID17071 Version C prepared by Wilkinson Murray and dated May 2017 • Traffic and Transport Impact Assessment Report ID16.355r01v03 prepared by Traffix Dated May 2017 • Clause 4.6 Request for Variation to a Development Standard • Conditions
Recommendation	Approval (subject to conditions)
Report by	Kim Rothe, Acting Executive Planner, North Sydney Council
Report date	26 October 2017

EXECUTIVE SUMMARY

This development application seeks a change of use from Crows Nest TAFE to Cammeraygal High School Senior campus, refurbishment of existing building, construction of multi-purpose hall, outdoor covered area, ESD upgrades with solar panels, removal of 60 car spaces, new security fencing.

The Council's notification of the proposal has attracted fifty eight (58) submissions raising particular concerns about:

- *Don't support the decommissioning of TAFE and repurposing of a more intensive high school premises*
- *Don't support the provision of a new multi-purpose hall in the location proposed. New hall is too close to surrounding residential properties*
- *Loss of the current green space on site.*
- *Concerns over site location and increase to traffic and parking impact, inadequate parking provision on site or lack of functional pick up and drop off zone on site.*
- *Excessive amount of excavation proposed.*
- *Lack of outdoor play area, inappropriate outdoor play areas*
- *Potential for privacy impacts from student numbers and overlooking*
- *Concern of level of noise from the school (number of children, location etc) versus the existing TAFE operation*
- *Proposal will impact upon the peaceful enjoyment of the suburb by the local residents*
- *Concerns of the use of the new Hall particularly late evening proposed operations.*

As this proposal has a Capital Investment Value (CIV) of greater than \$5 million for Crown infrastructure in this case being a refurbishment / repurposing works to the existing educational establishment, the consent authority for the development application is the Sydney North Planning Panel.

The Department of Education has confirmed that it wishes this proposal be determined as submitted. This does not rule out a modification to the proposal at a later date.

Assessment of this application and consideration of the issues raised in the submissions do not result in any issue which is not either otherwise acceptable or cannot otherwise be managed via recommended conditions of development consent

Afterhours use for community purposes is a matter for the school community and Principal after the completion of the school. Given the dense residential setting of the site any afterhours use will need to be carefully managed to minimize adverse impacts.

Following assessment of the plans and associated information, the development application is recommended for **approval**.

DESCRIPTION OF THE PROPOSAL

The application seeks consent to adapt and refurbish the existing Crows Nest TAFE to accommodate Cammeraygal High School's Senior Campus (The School). This DA seeks consent for the following works:

- Internal refurbishments to the existing 4-storey TAFE building;
- External activities area on roof of existing main building
- Construction of a new multi-purpose hall with stage, change room facilities and storage capacity;
- Construction of an outdoor covered area associated with the new multi-purpose hall;
- ESD upgrades throughout existing building and solar panels to roof of main building;
- Removal of 60 car parking spaces to accommodate new play area;
- 27 Car parking spaces proposed to be retained;

- New security fencing.
- Capacity for 600 Students and 60 staff (some sharing to occur between the Junior Campus and Senior campus)

The existing *education establishment* (TAFE) will be replaced with another *education establishment* (high school).

The major portion of the works involves the excavation for and construction of a new multi-purpose hall will be constructed at the rear of the existing TAFE building. The hall will be integrated with the existing building to ensure continuity and functionality. The multi-purpose hall will provide indoor recreation facilities for the school and the broader North Sydney community.

Operation hours will be from 7am to 11pm to cater for early morning sports practice and after school events such as school or community productions. The proposed hours cater for set up, after school activities and evening activities.

The multi-purpose hall contains a stage to accommodate school assemblies, functions and performances as well as catering for broader community occasional functions and events.

This space is expected to accommodate the following indicative school activities:

- Musical and drama auditions, rehearsals and productions;
- Art exhibitions;
- Dance and music concerts;
- School meetings, lectures and presentations;
- Personal Development, Health and Physical Education (PDHPE) classes and activities;
- Sporting team practice;
- School open days; and
- Teaching, assessment tasks and examinations.

The public use may include sporting practice and competitions, concerts and plays. Doors and windows of the hall should be closed during major out-of-school hours events to protect the acoustic amenity of surrounding existing and future residences.

The proposal also provides for internal pick up and drop off of school associated buses to collect / drop off students for school excursions and off site activities. Entry to the area will be via west street with the exit point in a forward direction via Rodborough Avenue. General school public transport buses (morning drop off and afternoon pick up) will not be utilizing this area.



Figure 1: View of the site from the north west from West Street, Crows Nest

STATUTORY CONTROLS

North Sydney LEP 2013

- Zoning – SP2 Infrastructure, Educational Establishment,
- Item of Heritage – No
- In Vicinity of Item of Heritage – No
- Conservation Area – No (Holtermann Estate B across West Street)
- Height limit – 12 metres

S94 Contributions –N/A Crown Development

Environmental Planning & Assessment Act 1979

Disability Discrimination Act

SEPP (Educational Establishments and Child Care Facilities) 2017

SEPP 64 (Advertising and Signage)

SEPP (Infrastructure) 2007

SEPP 55 - Contaminated Lands

SREP (Sydney Harbour Catchment) 2005

POLICY CONTROLS

North Sydney DCP 2013

- *Section 3 – Non-residential Development in Residential Zones (prevailing built form controls for the educational establishment)*
- *Section 10 – Car Parking and Transport*

DESCRIPTION OF LOCALITY

The subject site is known as Crows Nest TAFE, located at 149 West Street, Crows Nest. The site is legally described as Lot 1 DP 801983 and has an area of approximately 1.2 hectares. The site is bound by Ernest Street to the north and West Street to the west.

The existing Crows Nest TAFE is four-storeys in height and offers training programs across seven teaching sections including child studies, hospitality, outreach, international business, project management, marketing, human resource management and business management.

The site is predominantly surrounded by residential and education uses. Development in the surrounding area is summarized as:

- To the north is low to medium density residential, comprising of mostly single storey dwellings and three-storey residential flat buildings. Further north is Ernest Street.
- To the east is medium to high density residential, comprising of mostly three-storey residential flat buildings. Further east is Miller Street.
- To the south is Rodborough Street, providing pedestrian access to the subject site. The eastern side of Rodborough Street comprises of single-storey dwellings and the western side of Rodborough Street comprises of high-density residential and a child care centre.
- To the west is West Street and further is low density dwellings and numerous shop-top houses with commercial uses at ground level.



Figure 2 – GIS cadastre location diagram



Figure 5: Site Plan which also shows the locations of other nearby schools, public green space and the Cammeraygal Junior School campus. Note also the error in green space notation

CONSENT AUTHORITY

As this proposal has a Capital Investment Value (CIV) of greater than \$5 million for Crown infrastructure in this case being a refurbishment / repurposing works to the existing educational establishment, the consent authority for the development application is the Sydney North Planning Panel.

CROWN DEVELOPMENT

The development, being proposed by The Department of Education within the meaning of the Higher Education Act 2001, is prescribed as Crown Development pursuant to sections 88(2)(a) and 109R of the Environmental Planning and Assessment Act 1979, and section 226 of the Environmental Planning and Assessment Regulation 2000.

The conditions recommended by Council are subject to section 89(1)(b) of the EP&A Act which specifies that Council may not impose a condition of consent of any consent to a Crown DA, except with the approval of the applicant or the Minister. The applicant has been sent draft conditions of consent on 19 October 2017;

Development undertaken on behalf of the Crown is not subject to the issue of a Construction Certificate; as such, with the Crown being able to certify development for this purpose. Further, Council may not impose any condition requiring the payment of any bonds or surety for crown development without acceptance of the Crown for the requirement.

RELEVANT HISTORY

Pre-lodgement

There was no formal pre-lodgement noted as being undertaken for the proposed TAFE to High School conversion.

Subject Application

The subject application was lodged on 23 June 2017. The development application was placed on notification between 28 July 2017 – 18 August 2017.

A preliminary additional information request letter was sent to the applicant requesting:

- Revised Statement of Environmental Effects
- Additional section for the rooftop learner area
- Details of the use of the multi-purpose hall.

The applicant submitted further information pursuant to Council's request on 18 July 2017.

A suite of amended plans was submitted to Council on 16 August 2017 which refined elevational details of the proposal, incorporated the signage proposal and clarified solar impact. The information submitted was determined to not require re-notification in the circumstances due to their being no new impact arising from the amendments.

Council staff briefed the Sydney North Planning Panel regarding the proposal on 13 September 2017. At the briefing, the Panel set the determination meeting date of 8 November 2017.

Council staff have met with the applicant and Department of Education representatives on 20 September and 16 October 2017.

INTERNAL REFERRALS

Note: The following section describes the referrals made and comments received from internal and external referral agencies. Whilst conditions can be recommended to respond to concerns as raised, as the applicant represents a Crown Authority (the Department of Education), the applicant must agree to all conditions recommended to be imposed upon the application.

Building

The application has not been specifically assessed specifically in terms of compliance with the National Construction Code (NCC) / Building Code of Australia (BCA). It is intended that if approved, Council's standard condition relating to compliance with the NCC/BCA be imposed and should amendments be necessary to any approved plans to ensure compliance with the BCA, then a Section 96 application to modify the consent may be required.

Engineering/Stormwater

Council's Development Engineer has assessed the proposed development and provided a number of general and specific conditions. Should the development application be approved, the imposition of a number of standard and site specific conditions relating to damage bonds, excavation, dilapidation reports of adjoining infrastructure, construction management plan, vehicular crossing requirements and stormwater management would be required.

Traffic

Council's Traffic Engineers have reviewed the application and made the following comments regarding the proposal and associated traffic report:

"Traffic Generation

The report states that the existing site is historically occupied and operated by the Crows Nest TAFE. Whilst there may be some TAFE related vehicle trips captured in the traffic surveys undertaken as part of this study, it is understood that lectures are currently limited and enrolment has dwindled since the transfer of the land over to the Department of Education. Therefore, all trips generated by the proposed Cammeraygal High School Senior Campus is assumed to be new, or additional on the road network to provide a robust and conservative assessment.

The proposed development is expected, in the worst case, to generate a total of 114 vehicle trips (60 in, 54 out) during the 8:00-9:00am peak hour and 38 vehicle trips (15 in, 23 out) during the 3:00-4:00pm peak hour if travel modes are maintained as documented in survey data. The traffic distribution and SIDRA modelling demonstrate that the additional vehicle trip generation will not have significant impacts on the proposed road network and it is considered that no upgrades will be necessary to accommodate the traffic generation of the proposed development.

Based on the assumption made by "traffix" that travel modes are maintained as documented in survey data, generally the proposed development will not have unacceptable traffic implications in terms of road network capacity.

Parking Provision

Based on the Council's DCP 2013 (amended on 5 November 2015 Section 10) the following maximum parking provisions for this development are required:

<i>Type of Development</i>	<i>North Sydney Council DCP 2013</i>	
	<i>Maximum Parking</i>	
<i>Educational Establishment</i>	<i>1 space / 6 staff</i>	<i>10</i>
<i>Entertainment Facilities</i>	<i>1 space per 100 msq</i>	<i>6</i>
<i>Total Maximum car parking spaces</i>		<i>16</i>

The development proposes a total of 28 parking spaces including 10 for staff, 6 for entertainment facilities when the School's multipurpose hall is in use and 2 Accessible parking spaces.

The proposed development has additional 10 parking spaces above the maximum requirements set out in the DCP which does not comply with the Council's DCP 2013 (amended on 5 November 2015 Section 10) for the maximum parking space requirement.

Parent Drop off/Pick up

Recommended Changes to On-Street Parking Arrangement as stated in the report is not supported. parents drop off/pick up shall be carried out entirely within the site. The proposed parking area and delivery spaces could be used for this purpose during the morning and afternoon drop off/pick up.

Entry via West Street and exit via Rodborough Ave may be used as drop off/pick up route for parents under School Staff Control.

Bicycle Parking

Council's DCP does not specifies a rate for number of bicycle spaces for Educational Establishment.

Based on the survey of existing school, 2% of student chose to cycle to school. The report however does not propose any bicycle facilities for students who ride to school.

The applicant is required to provide sufficient bicycle spaces on the school ground for those who ride to school.

Loading Facilities

The proposed development has provided an area for 14.5m buses that occasionally access the school.

Proposed Driveway access

The report the proposed development makes provision for a new vehicular egress (only) driveway at the cul-de-sac of Rodborough Avenue for service vehicles and buses preventing the need for these large vehicles to turnaround on site. The applicant is required to demonstrate that the proposed driveway will not have any impacts on the existing parking spaces in Rodborough Avenue at the cul-de-sac.

Conclusion

It is recommended that the proposed development be refused until the applicant addresses the followings:

- *The car parking provision to be reduced to comply with the limits set out in 2013 DCP.*
- *The development is in shortage of bicycle spaces area to accommodate for the students who ride to school.*
- *The applicant is required to provide details of proposed bicycle parking spaces.*
- *The applicant is required to provide onsite Drop off/pick up area/s to avoid reliance on the street parking.*

Should Council approve this development it is recommended that the following conditions be imposed:

1. *That a Construction Management Plan be prepared and submitted to Council for approval by the North Sydney Traffic Committee prior to the issue of the Construction Certificate. Any use of Council property shall require appropriate separate permits/ approvals.*
2. *Onsite Drop off/pick up area/s to be provided to avoid reliance on the street parking.*
3. *That all aspects of the car park comply with the Australian Standard AS2890.1 Off-Street Parking and Council's DCP.*
4. *That all aspects of bicycle parking and facilities comply with the Australian Standard AS2890.3 and Council's DCP.*
5. *The proposed driveway will not have any impacts on the existing parking spaces in Rodborough Avenue at the cul-de-sac.*

Planning comments: The comments are noted however the proposal includes a reduction in 60 existing car spaces on site to accommodate the new internal bus area and multi-purpose hall. Council's Planning Section does not support a further reduction of parking on site on the basis of the significant reduction being made to the existing levels of parking and to accommodate further student increases at the school.

Additionally, the request to internalise the pick-up and drop off from within the school grounds is not supported by the applicant on the basis that this does not occur at any other public school in the locality. Furthermore, The Road and Maritime Service has raised no objection to the development subject to the provision of a School Zone to be provided on Ernest Street adjacent to the northern pedestrian entry point to the school.

Landscaping

Council's Landscape Development Officer provided the following comments:

"No objection is raised to the proposed tree removal. The only tree of significance that is proposed for removal is Tree T3, the large Camphor Laurel at the rear of the site, which has high landscape value, however, these trees are generally considered to be a weed species and its location sterilizes the site so it has to be removed. The planting proposal includes replenishment large semi-advanced 100 L and 400 L trees. The proposed plant selection is considered to be appropriate to the site."

Planning comments: The comments are noted and the landscaping proposal forms part of the recommended plan suite.

EXTERNAL REFERRALS

Roads and Maritime Services

The matter has been referred to RMS for comment as being identified as a traffic generating development. The following initial comments were received from RMS on 6 September 2017:

"Roads and Maritime has reviewed the submitted application and raises the following issues to be addressed:

- 1. Additional egress onto Rodborough Rd is proposed as part of development. Roads and Maritime has concerns with large vehicles turning right onto Falcon Street from Rodborough Road. No detail has been provided on the number of buses/service vehicles that will exit onto Falcon Street, the expected directions they will travel and the impact on the intersection. This information should be provided for analysis by Roads and Maritime.*
- 2. There are no bus stops/zones on West Street between Falcon Street & Ernest Street. It is unclear if all bus trips are to be accommodated on site. If not discussions should be held with Council/Sydney Buses regarding the installation of bus stops/zones along this location.*
- 3. The proposed changes to parking restrictions on West Street will need to be considered by the North Sydney Council Traffic Committee.*
- 4. Roads and Maritime is committed to providing a safe road environment for students adjacent to school premises. As part of our Safety Around Schools Program, announced by the former Minister for Roads and Transport in November 2001 and on all roads where a Roads and Maritime School Crossing Supervisor is employed.*

School zones are not typically intended for routes to school. While students may walk to school on other roads, including those sharing a boundary with the school, it is not feasible to introduce school zones on all roads. For Roads and Maritime to approve a school zone outside Cammeray High School verification from the Education Department that the school is a registered school site is required.

Please note that Roads and Maritime require an 8-week notification to install a school zone. Please forward the opening date of the school and the certificate of registration to Roads & Maritime as soon as possible."

The matter was raised with the applicant and further information was supplied via Council to the RMS on 10 October 2017. The following further comments were received from the RMS on 24 October 2017:

Roads and Maritime has reviewed the submitted application and has since received additional clarification from the consultant on 10 October 2017 addressing the items raised in Roads and Maritime letter of response dated 6 September 2017. Roads and Maritime has reviewed the submission and raises no objections to the proposed development subject to the installation of a School zone on Ernest Street. Roads and Maritime provides the following additional comments:

- *The proponent should be advised that the subject property is within a broad area currently under investigation for the proposed Western Harbour Tunnel and Beaches Link motorway.*

The actual alignment for the proposal has not yet been determined and at present Roads and Maritime advises that the subject property remains within an area of investigation.

The design will be finalised following feedback and development of an environmental impact statement. Once Roads and Maritime has more certainty on the properties impacted by the final road design, it will directly advise the owners of those properties.

Further information about this project is available by contacting 1800 789 297 or motorwaydevelopment@rms.nsw.gov.au or by visiting the project website at <http://www.rms.nsw.gov.au/projects/sydney-north/western-harbour-tunnelbeacheslink/index.html>

School Zones

A significant number of vehicles and pedestrians will access the site at the start and end of the school day. School Zones must be installed along all roads with a direct access point (either pedestrian or vehicular) from the school. School Zones must not be provided along roads adjacent to the school without a direct access point. Road Safety precautions and parking zones should be incorporated into the neighbouring local road network:

- *40km/hr School Zones are to be installed on Ernest Street in accordance with the following conditions.*
- *Council should ensure that parking; drop-off and pick-up zones and bus zones incorporated are in accordance with Roads and Maritime standards.*

Roads and Maritime Services (Roads and Maritime) is responsible for speed management along all public roads within the state of New South Wales. That is, Roads and Maritime is the only authorised organisation that can approve speed

zoning changes and authorise installation of speed zoning traffic control devices on the road network within New South Wales.

Therefore, the Developer must obtain written authorisation from Roads and Maritime to install the School Zone signs and associated pavement markings and/or remove/relocate any existing Speed Limit signs.

To obtain authorisation, the Developer must submit the following for review and approval by Roads and Maritime, at least eight (8) weeks prior to student occupation of the site:

- a. A copy of Council's development Conditions of Consent*
- b. The proposed school commencement/opening date*
- c. Two (2) sets of detailed design plans showing the following:*
 - i. School property boundaries*
 - ii. All adjacent road carriageways to the school property*
 - iii. All proposed school access points to the public road network and any conditions imposed/proposed on their use*
 - iv. All existing and proposed pedestrian crossing facilities on the adjacent road network*
 - v. All existing and proposed traffic control devices and pavement markings on the adjacent road network (including School Zone signs and pavement markings).*
 - vi. All existing and proposed street furniture and street trees.*

School Zone signs and pavement marking patches must be installed in accordance with Roads and Maritime approval/authorisation, guidelines and specifications.

All School Zone signs and pavement markings must be installed prior to student occupation of the site.

The Developer must maintain records of all dates in relation to installing, altering, removing traffic control devices related to speed.

Following installation of all School Zone signs and pavement markings the Developer must arrange an inspection with Roads and Maritime for formal handover of the assets to Roads and Maritime. The installation date information must also be provided to Roads and Maritime at the same time.

Note: *Until the assets are formally handed-over and accepted by Roads and Maritime, Roads and Maritime takes no responsibility for the School Zones/assets."*

Planning comments: The comments are noted and the RMS requirements forms part of the recommended condition set.

AUSGRID AND SYDNEY WATER

Ausgrid and Sydney Water have both responded to the general notification of the development. No issues have been raised subject to general requirements which can be imposed as conditions.

SUBMISSIONS

The owners, occupiers of adjoining properties and the Crows Nest / Hayberry Precinct were notified of the proposal between 28 July 2017 – 18 August 2017.

To date, fifty eight (58) submissions including one petition containing 17 signatures and comment from Council's Hotlman and Registry Precinct committees has been received regarding the proposal. The majority object to the proposal.

Additionally, local residents have prevailed upon the Council to write to the Minister for Education to consider community concerns being raised principally by the existing Cammeraygal School Parents and Children's Association regarding increasing the size of the hall to service student and community needs. The Minister's representatives have responded advising that the current multi-purpose hall represents the maximum building which can be provided on site under the current budgetary allowances.

The following is a summary only of the main concerns raised in the submissions. More detailed comments are provided later in the report. Primary concerns raised in the objections include:

- *Don't support the decommissioning of TAFE and repurposing of a more intensive high school premises*
- *Don't support the provision of a new multi-purpose hall in the location proposed. New hall is too close to surrounding residential properties*
- *Loss of the current green space on site.*
- *Concerns over site location and increase to traffic and parking impact, inadequate parking provision on site or lack of functional pick up and drop off zone on site.*
- *Excessive amount of excavation proposed.*
- *Lack of outdoor play area, inappropriate outdoor play areas*
- *Potential for privacy impacts from student numbers and overlooking*
- *Concern of level of noise from the school (number of children, location etc) versus the existing TAFE operation*
- *Proposal will impact upon the peaceful enjoyment of the suburb by the local residents*
- *Concerns of the use of the new Hall particularly late evening proposed operations.*

CONSIDERATION

The relevant matters for consideration under Section 79C of the *Environmental Planning and Assessment Act 1979*, are assessed under the following headings:

DISABILITY DISCRIMINATION ACT 1992

The Disability Discrimination Act (DDA) requires Council to have regard to the equity of access to development when assessing a development application. In order to achieve equitable access, an appropriate accessible path of travel would need to be provided to and throughout the school, appropriate accessible facilities would be required and appropriate accessible parking would be required.

The applicant provided a report prepared by TKD Architects addressing accessibility in general, the need for a management plan for drop-off and pick-up of students with mobility issues and the need for a hearing augmentation system.

In summary, the correspondence confirms:

- There is a continuous accessible path of travel to and within the school built environment;
- The proposed lift and reasonable distances to all levels throughout the school to be considered to be part of a continuous path of travel between the terraces;
- There is an accessible path of travel from the staff car park to the lift;

The report makes a series of recommendations for compliance with the Disability Access to Premises Standards 2010, the Building Code of Australia 2014 – Parts D3, E3 and F2, Accessibility Standards AS1428.1 2009, AS 1428.4.1:2009, AS 2890.6:2009, AS 1735.12 and School Facilities Standard, Design Standard Version 1/7/2012. A condition of consent is recommended require the design to be certified as being compliant with these standards prior to commencement of work and that the works have been carried out in accordance with the

standard prior to occupation of the school.

SEPP (Educational Establishments and Child Care Facilities) 2017

This SEPP was gazetted on 1 September 2017 and is applicable to the proposed development. The aim of this Policy is to facilitate the effective delivery of educational establishments and early education and care facilities across the State by:

- (a) *improving regulatory certainty and efficiency through a consistent planning regime for educational establishments and early education and care facilities, and*
- (b) *simplifying and standardizing planning approval pathways for educational establishments and early education and care facilities (including identifying certain development of minimal environmental impact as exempt development), and*
- (c) *establishing consistent State-wide assessment requirements and design considerations for educational establishments and early education and care facilities to improve the quality of infrastructure delivered and to minimise impacts on surrounding areas, and*
- (d) *allowing for the efficient development, redevelopment or use of surplus government-owned land (including providing for consultation with communities regarding educational establishments in their local area), and*
- (e) *providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and*
- (f) *aligning the NSW planning framework with the National Quality Framework that regulates early education and care services, and*
- (g) *ensuring that proponents of new developments or modified premises meet the applicable requirements of the National Quality Framework for early education and care services, and of the corresponding regime for State regulated education and care services, as part of the planning approval and development process, and*
- (h) *encouraging proponents of new developments or modified premises and consent authorities to facilitate the joint and shared use of the facilities of educational establishments with the community through appropriate design.*

Part 4 Clauses 33 -42 of the SEPP are directly applicable to School Development. The following table summarizes the comments relating to the relevant clauses.

Clause	Comment
33 Definition of “prescribed zone”	The site is zoned SP2 Infrastructures and is a prescribed zone for the purposes of the SEPP.
34 Development for the purpose of student accommodation	There is no proposal for on-site student accommodation as part of this application . This clause is not applicable to the development.
35 Schools—development permitted with consent (1) <i>Development for the purpose of a school may be carried out by any person with development consent on land in a prescribed zone.</i> (2) <i>Development for a purpose specified in clause 39 (1) or 40 (2) (e) may be carried out by any person with development consent on land within the boundaries of an existing school.</i> (3) <i>Development for the purpose of a school may be carried out by any person with development consent on land that is not in a prescribed zone if it is carried out on land</i>	Consent is sought via this subject application. Consent is sought to convert a different form of Educational Establishment to a School. Whilst it is an existing premises consent is not sought via complying development provisions of the SEPP. Land is a prescribed zone for the purposes of the SEPP.

<i>within the boundaries of an existing school.</i> (4) <i>Subclause (3) does not require development consent to carry out development on land if that development could, but for this Policy, be carried out on that land without development consent.</i> (5) <i>A school (including any part of its site and any of its facilities) may be used, with development consent, for the physical, social, cultural or intellectual development or welfare of the community, whether or not it is a commercial use of the establishment.</i> (6) <i>Before determining a development application for development of a kind referred to in subclause (1), (3) or (5), the consent authority must take into consideration:</i> <i>(a) the design quality of the development when evaluated in accordance with the design quality principles set out in Schedule 4, and</i> <i>(b) whether the development enables the use of school facilities (including recreational facilities) to be shared with the community.</i> (7) <i>Subject to subclause (8), the requirement in subclause (6) (a) applies to the exclusion of any provision in another environmental planning instrument that requires, or that relates to a requirement for, excellence (or like standard) in design as a prerequisite to the granting of development consent for development of that kind.</i> (8) <i>A provision in another environmental planning instrument that requires a competitive design process to be held as a prerequisite to the granting of development consent does not apply to development to which subclause (6) (a) applies that has a capital investment value of less than \$50 million.</i> (9) <i>A provision of a development control plan that specifies a requirement, standard or control in relation to development of a kind referred to in subclause (1), (2), (3) or (5) is of no effect, regardless of when the development control plan was made.</i> (10) <i>Development for the purpose of a centre-based child care facility may be carried out by any person with development consent on land within the boundaries of an existing school.</i> (11) <i>Development for the purpose of residential accommodation for students that is associated with a school may be carried out by any person with development consent on land within the boundaries of an existing school.</i>	Works are not being pursued via exempt development provisions. Included in the proposal is intention to use the school multi-purpose hall for ancillary community functions. Assessment of the Design quality principles is provided in the following table. CIV value of the development is less than \$50 Million and the total amount of new works did not warrant consideration by North Sydney's Design Excellence Panel. Noted, though North Sydney council does not have a specific Development Control Plan relating to Educational Establishments. No centre based child care is proposed No residential accommodation is proposed
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36 Schools—development permitted without consent	Consent is sought for works pursuant to this development application. No works pursued under this clause
37 Notification of carrying out of certain development without consent	Applies to works related to the previous clause. Application has been duly notified and submissions considered
38 Existing schools—exempt development	Consent is sought for works pursuant to this development application. No exempt works proposed.
39 Existing schools—complying development	Consent is sought for works pursuant to this development application. No complying development works proposed.
40 School-based child care—complying development	No school based child care works proposed nor consent sought via complying development provisions.
41 Complying development certificates — additional conditions	N/A
42 State significant development for the purpose of schools—application of development standards in environmental planning instruments	Application is not identified as State Significant Development

Pursuant to the requirements of Clause 35(6)(a), The SEPP requires that consideration be given by the Consent authority to the seven (7) design principles as set out in Schedule 4 of the SEPP and an analysis is provided as follows:

Design Principle	Response
<i>Principle 1 — context, built form and landscape</i>	The design of the proposal, principally the new multi-purpose hall has endeavored to find a balance between servicing the needs of the student population whilst minimizing impacts to adjoining properties. Contextually being located at the rear of the site, the main additions have little visible impact to the locality.
<i>Principle 2 — sustainable, efficient and durable</i>	The new refurbishment works and new hall will extend the life of the existing building and retrofit the building to be suitable for modern educational establishment. The new and retrofit works incorporate a number of sustainability features including solar arrays and energy efficient fixtures and fittings.
<i>Principle 3 — accessible and inclusive</i>	The existing building and new facilities will undergo an upgrade to improve the accessibility and inclusivity of the school premises.
<i>Principle 4 — health and safety</i>	The new design endeavors to create a welcoming and accessible environment as required by the principle.
<i>Principle 5 — amenity</i>	By repurposing of space within the existing building and design of the new multi-purpose building a variety of spaces are created for use by the students.
<i>Principle 6 — whole of life, flexible and adaptive</i>	The new multi-purpose hall is designed to be adaptable to meet the changing requirements of the school, student body and community.
<i>Principle 7 — aesthetics</i>	The new multi-purpose hall is distinct from the existing buildings on site and utilises a roof form which creates a varied skyline whilst minimising impacts to adjoining properties.

The development is generally considered to accord with the design principles as set out in the SEPP. The proposal has considered the provision of the SEPP and the development is acceptable in this regard.

Planning Circular PS 17-004

In conjunction with gazettal of the SEPP, the department of Planning released an associated planning circular providing guidance on the application of the provisions of the SEPP.

The circular discusses the imposition of conditions which set caps on the maximum number of students and staff at the schools. The circular advises that a flexible approach should be applied to the consideration of the limitation of student numbers at schools given the considerable authority bestowed by the SEPP to undertake exempt and complying works which have the ability to increase capacity at schools. The circular advises on page 3 as follows:

“If caps on student or staff numbers are to be applied, they are to be based on clear evidence that the operational capacity of the school should be limited according to the environmental constraints of the site and/or the surrounding locality.”

And also relevantly:

4. Flexibility required for school developments

The consent authority should recognise the need for flexibility when limiting staff and student numbers. Public schools are legally required to accommodate all children within their local catchment, and intake can fluctuate considerably between years and may be hard to predict.

Non-government schools can also experience similar fluctuations in enrolments due to changes in population and parental preference. Staff numbers may also fluctuate at schools depending on student numbers and specialist learning needs of the school.

Should a consent authority determine that a cap is required, then it should also consider how the cap may be reasonably implemented with sufficient flexibility to allow the school to meet increased student enrolment demands.

The prevailing consideration applicable to this subject application in this regard is the capacity of the surrounding road network. Both Council’s Traffic Engineers and Roads and Maritime Service have advised that the proposal will not be beyond the capacity of the existing surrounding road network. Additionally, the design of the works including provision of the multi-purpose hall (including space requirements) has been deemed satisfactory for an indicative capacity of 600 students and adequate provisions of passive and active play space.

With regard to the circular instructions, to promote future flexibility, no cap on student and staff numbers forms part of the recommended conditions primarily on the basis of the absence of any prevailing planning reason to impose such a cap.

SEPP (Infrastructure) 2007

Note: This SEPP formerly contained provisions specifically relating to Educational Establishments under Division 3 clauses 27 -32. These Clauses have been since repealed and are no longer relevant to Educational Establishment proposals.

The matter has been referred to RMS for comment for being identified as a potentially traffic generating development pursuant to the requirements of SEPP (*Infrastructure*) 2007.

Advice received from Roads and Maritime Services raise no objection to the proposed development subject to the installation of a School zone on Ernest Street. The RMS has advised that these matters can be resolved prior to occupation of the school premises and can

be incorporated into any consent notice as a condition of consent. Please refer to the Road and Maritime Service referral heading of the report for full details. The development is accordingly acceptable with regard to the provisions of the Infrastructure SEPP.

SEPP 55 Remediation of Land

The provisions of SEPP 55 require consideration as to whether the site is contaminated and requires remediation. A Preliminary contamination investigation has been undertaken which concludes site can be made suitable for the intended use however stage two works are required to confirm this conclusion. This has been incorporated into the recommended conditions of development consent that a check testing is to be certified by a suitably accredited site auditor that the site will be suitable for its intended sensitive land use following demolition and any required remediation work at the site.

SREP (Sydney Harbour Catchments) 2005

The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP. The site, however, is not located close to the foreshore and will not be readily visible from any part of the harbour and the application is considered acceptable with regard to the aims and objectives of the SREP.

SEPP 64 Advertising and Signage

SEPP 64 applies to applications including advertising structures/signage that will be visible from any public place and the subject application includes school identification signage details submitted on 18 August 2017 as following:

Two new sign depicting the school logo to be erected on:

- visible portion of the western elevation of the new multi-purpose hall
- eastern elevation of the existing buildings semi-circle quadrant

The signs feature the school logo and motto only. Neither is highly visible from any major public place. There is no indication that the signage will be illuminated and as such a condition of consent will require the signage not be illuminated.

Clause 8 requires that signage must not be granted consent unless the signage is consistent with the objectives of the Policy and satisfies the assessment criteria specified in Schedule 1. The objectives of the Policy of relevance to this application are:

(a) to ensure that signage (including advertising):

- i. is compatible with the desired amenity and visual character of an area, and*
- ii. provides effective communication in suitable locations, and*
- iii. is of high quality design and finish, and*

The proposed signage is suitably located and provides for effective communication. The design and finish of the proposed signs is acceptable.

The Schedule 1 assessment criteria are addressed as follows.

1 Character of the area

- *Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?*
- *Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?*

Planning Comment: The signs are generally compatible with the desired character of the area. There is no relevant theme for outdoor advertising in the area.

2 Special Areas

- *Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?*

Planning Comment: The site is not located in a sensitive or heritage area, however the signage will be visible from residential areas. The signage is of reasonable size and design such that it is compatible with the design of the building and will not detract from the visual quality of the area.

3 Views and Vistas

- *Does the proposal obscure or compromise important views?*
- *Does the proposal dominate the skyline and reduce the quality of vistas?*
- *Does the proposal respect the viewing rights of other advertisers?*

Planning Comment: The proposed signage has no negative impacts upon important views. The proposed signage will not dominate the skyline or reduce the quality of vistas. The proposed signage will not have a negative impact upon the viewing rights of other advertisers.

4 Streetscape, setting or landscape

- *Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?*
- *Does the proposal contribute to the visual interest of the streetscape, setting or landscape?*
- *Does the proposal reduce clutter by rationalising and simplifying existing advertising?*
- *Does the proposal screen unsightliness?*
- *Does the proposal protrude above buildings, structures or tree canopies in the area or locality?*
- *Does the proposal require ongoing vegetation management?*

Planning Comment: The signage is of appropriate scale, proportion and form for the streetscape setting. The signage will contribute positively to the streetscape. The proposed signage will not add to advertising clutter. The proposed signs do not screen unsightliness. The proposed signage will not protrude above buildings or tree canopies. The signage will not require ongoing vegetation management.

5 Site and Building

- *Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?*
- *Does the proposal respect important features of the site or building, or both?*
- *Does the proposal show innovation and imagination in its relationship to the site or building, or both?*

Planning Comment: The signage is compatible with the scale, proportion and other characteristics of the building. The signage will be appropriate to the new site usage.

6 Associated Devices and Logos with Advertisements and Advertising Structures

- *Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?*

Planning Comment: The signs are not general purpose signs and as such there are no logos of advertising companies.

7 Illumination

- *Would illumination result in unacceptable glare?*
- *Would illumination affect safety for pedestrians, vehicles or aircraft?*

- *Would illumination detract from the amenity of any residence or other form of accommodation?*
- *Can the intensity of the illumination be adjusted, if necessary?*
- *Is the illumination subject to a curfew?*

Planning Comment: No illumination of the signs is proposed.

8 Safety

- *Would the proposal reduce the safety for any public road?*
- *Would the proposal reduce the safety for pedestrians or bicyclists?*
- *Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?*

Planning Comment: The proposed signage is unlikely to impact the safety of the adjacent roads. The signage is located such that it will not screen any pedestrians or cyclists from the view of drivers. The signage will not obscure any sightlines from public areas.

NORTH SYDNEY LEP 2013

Permissibility within the zone:

The subject site is located within a SP2 Infrastructure - Educational Establishment zone, where development for the purposes of an *Educational Establishment* is permissible with consent of Council.

SP2 Infrastructure – Educational Establishment Zone Objectives

The specific objectives of the Infrastructure zone are as follows:

- *To provide for infrastructure and related uses.*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*

The existing TAFE premises and proposed High School both meet the definition for *Educational Establishment* as defined in NSLEP 2013. The zoning will remain appropriate to the proposed repurposing works and new operation as a High School. The proposal raises no concern with regard to the provisions of the zone.

Building Heights

Clause 4.3 sets a maximum height for buildings on the subject site of 12 metres. The existing TAFE building and proposed multipurpose hall will exceed this height limit at 12m, with a maximum building height of 16.5m.

As the development breaches the height controls, normally a clause 4.6 variation request would be required in order to permit the variation of the height control. However, clause 5.12 of LEP 2013 states that “*This Plan does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development, by or on behalf of a public authority, that is permitted to be carried out with or without development consent, or that is exempt development under State Environmental Planning Policy (Infrastructure) 2007*”. As the height control would restrict development of an educational establishment permissible under SEPP (Infrastructure), the control is not applicable to the application.

Notwithstanding this clause, the applicant has submitted a Clause 4.6 Request for Variation to a development standard as part of the application package. Their primary arguments provided in the statement in support of the variation are provided for the Panels consideration as follows:

“Justification for the Variation

In view of the particular circumstances of this case, strict compliance with Clause 4.3 of the LEP is considered to be both unnecessary and unreasonable. The proposal is consistent with the intent of Clause 4.3 which is to maintain existing views, to safeguard the amenity of existing dwellings and to maintain the visual character of the area. The proposal achieves this outcome, notwithstanding the proposed numeric variation.

The proposal is justified on the following environmental planning grounds:

- It represents a logical and co-ordinated development of the site for school use.*
- It will improve the physical appearance of the site through a carefully designed building that is responsive to site context and its intended function.*
- The architectural design of the new multi-purpose hall provides a good quality architectural design outcome for the site.*
- New development will not result in overlooking, overshadowing or privacy issues. The hall will have a one-storey interface with the residential flat buildings to the north and east, adequate setbacks and landscaping will further protect residential privacy and amenity.*
- The proposal makes use of void space on Level 03, turning the void into a functional terrace with a new balustrade for safety and plant trellis to improve the amenity of the terrace and provide additional green space within the school*
- Development will be consistent in height with existing buildings and the desired future character of the area.*

Community Benefits

The principle aim of the proposal is to provide improved infrastructure to service the education needs of the community within a high-density environment. The proposed variation to the height control of the LEP does not result in the loss of amenity to the adjoining properties as a result of overshadowing or loss of privacy. The proposed height is considered to be acceptable particularly when balanced against the benefits of the project which area:

- Improved education facilities on land zoned for this purpose.*
- Cammeraygal High School will be the only public high school in the catchment and will provide accessible public education for residents within Crows Nest and surrounding suburbs. Reducing students travel distance and time to school.*
- Provide high-quality recreation space for the school community on a highly constrained site.*
- Filling the need for a public high school in the school catchment.*
- Improve operations of school, providing a junior and senior campus to future prove the school for the predicted population growth.*
- Enhance the students overall school experience by providing improved facilities and outdoor and indoor recreational opportunities.*
- The proposed hall also has the opportunity to be a community asset, providing additional performance, sport and gathering spaces for community uses in the local area.*

Four2Five Pty Ltd V Ashfield Council [2015] NSW LEC

Four2Five Pty Ltd v Ashfield Council [2015] NSW LEC, initially heard by Justice Pain, upheld on appeal by Commissioner Pearson, it was found that an application under clause 4.6 to vary a development standard must go beyond the five (5) part test of Wehbe V Pittwater [2007] NSW LEC 827 and demonstrate the following:

- *Compliance with the particular requirements of Clause 4.6 of the LEP; and*
- *That there are sufficient environment planning grounds, particular to the circumstances of the proposed development (as opposed to general planning grounds that may apply to any similar development occurring on the site or within its vicinity);*
- *That maintenance of the development standard is unreasonable and unnecessary on the basis of planning merit that goes beyond the consideration of consistency with the objectives of the development standard and/or the land use zone in which the site occurs.*

Comment:

Environmental Grounds:

There are sufficient environmental planning grounds to justify the contravening development. These include:

- *The variation does not result in unreasonable adverse amenity impact on adjacent land;*
- *The variation does not diminish the development potential of adjacent land;*
- *The development provides all necessary supporting facilities and infrastructure within the site;*
- *The hall will be consistent with the height of the existing building on site;*
- *The proposed built form does not result in any adverse environmental effects, such as loss of views, privacy or sunlight from any surrounding residential property or public places.*

Unreasonable and unnecessary:

Compliance with the development standard is considered unreasonable and unnecessary in the circumstances based on the following:

- *The development is consistent with the objectives of the development standard as provided in Clause 4.3 (1) of the NSLEP 2013. Refer to discussion above;*
- *The scale and mass of the building is consistent with the established built form on site and is aligned with the desired future character of the Anzac Neighbourhood;*
- *The proposal satisfies the objectives of the SP2 Zone;*
- *The additional height allows a fully functional recreation facility for the school, which could potentially benefit the community; and*
- *The potential environmental impacts of the variation have been detailed in Section 5 of this SEE. The additional height does not cause significant overshadowing to adjacent residential properties or visually dominant existing building form.*

Strict numerical compliance is therefore considered unreasonable and unnecessary in the circumstances.

Summary

The proposal is considered appropriate and consistent with the objectives and intent of Clause 4.3 of the LEP. Strict compliance with the LEP in this case is considered to be unreasonable and unnecessary because:

- Strict compliance with the height limit would unreasonably restrict the potential to develop the facilities required by the School.*
- The proposed development will take place within an established urban context where taller building forms are a common feature.*
- The height control does not reflect existing development on the site, with the existing building already exceeding the 12m height control which applies.*
- The proposal is consistent with the intent of Clause 4.3 of the LEP which is to minimise adverse amenity impacts on neighbouring residential properties and to maintain the desired future character of the area.*
- The proposal will not result in the loss of views as a result of the heights proposed.*

Planning Comment: Whilst the provisions of Clause 5.12 prevail with regard to the applicability of the height control, the arguments presented in the applicants written Clause 4.6 Request for Variation are considered to be well founded and have demonstrated sufficient environmental planning grounds exist in support of a proposed variation. Accordingly, a variation to the Maximum Height of Buildings for the proposed school is supported.

Clause 5.9 Preservation of Trees and Vegetation

The provisions of Clause 5.9 Preservation of Trees or Vegetation seeks to preserve existing trees and vegetation. The school campus has largely been cleared of vegetation but does include a number of mature trees within its existing landscaped areas and adjacent to the site boundaries. Council's Landscaping officer has made assessment of the trees required to be removed to provide the space for the new school multi-purpose hall. The removal of the trees is acceptable in the circumstances with a significant portion of the existing vegetation on site to be retained. Please refer to the comments provided under the "Landscaped Referral" heading of the report. The development is acceptable in this regard.

Clause 5.10 Heritage Conservation

The provisions of clause 5.10 address heritage conservation and require consideration of the impact of developments within the vicinity of items of heritage. The subject site is located within the vicinity of the Holtermann B Conservation Area located across West Street. It is not considered that the proposal will have a detrimental impact on the conservation area as at this location, the building is as existing and works proposed to this elevation are minimal and have little altered impact beyond the existing to surrounding development. The development is acceptable in this regard.

Clause 6.10 Earthworks

Clause 6.10 of NSLEP 2013 seeks to ensure that earthworks will not have any detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

Excavation is required around the base of the multi-purpose hall and connection points to the main existing building on site.

As per the provisions of Clause 6.10(3), the following matters are required to be considered before consent can be issued.

(3) *Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:*

- a) *the likely disruption of, or any detrimental effect on:*
- i. *drainage patterns and soil stability in the locality of the development, and*
 - ii. *natural features of, and vegetation on, the site and adjoining land,*

The site as existing does not contain any naturalized vegetation nor any evident natural rock outcropping. The excavation in itself will not disrupt or divert natural subsurface drainage patterns.

- b) *The effect of the development on the likely future use or redevelopment of the land,*

The proposal will continue the SP2 Infrastructure Educational Establishment usage of the site..

- c) *the quality of the fill or the soil to be excavated, or both,*

Given the extended residential history of the site it is unlikely that the site has experienced any significant contaminating activities which would give rise for concern relating to the quality of material to be excavated and removed off site. Where practicable, some of the excavated material will be re used on site however the majority of the excavated material will be removed off site for disposal to a suitable landfill. Please also refer to the SEPP 55 considerations of this report.

- d) *the effect of the development on the existing and likely amenity of adjoining properties,*

The excavation in itself is not considered to result in any amenity impact to these properties beyond unavoidable construction impact. The development and excavation is acceptable in this regard.

- e) *the source of any fill material and the destination of any excavated material,*

Where practicable, some of the excavated material will be re used on site however the majority of the excavated material will be removed off site for disposal to a suitable landfill.

- f) *the likelihood of disturbing Aboriginal objects or relics,*

The site has an extended history of educational establishment usage and the general locality is substantially built up and natural topography highly modified. The likely hood of encountering undisturbed relics is exceptionally low in the circumstances.

- g) *the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*

Appropriate sediment and erosion control measures have been to prevent sediment movement into the drainage infrastructure and adjoining properties. Council's Development Engineers have also examined the proposed stormwater disposal plan and concluded (subject to recommended conditions of consent) that post development stormwater discharge quality should be reasonably maintained. The development is acceptable in this regard.

In accordance with the provisions of Clause 6.10(3) this assessment has considered the impact of the excavation on site and to surrounding properties and found the excavation to be acceptable or can be adequately controls via the imposition of recommended conditions of development consent. Accordingly, the development is acceptable in this regard.

DEVELOPMENT CONTROL PLAN 2013

NSDCP 2013 is applicable to the application and the relevant controls are addressed following.

Relevant Planning Area (Camberay Planning Area – Anzac Neighbourhood)

The site is located in the Anzac Neighbourhood of the Cammeray Planning Area and the Anzac Club is identified within the Identity/Icons sections, however there are no controls of relevance to the application noted in relation to *Educational Establishments*.

Section 3 addresses non-residential uses in residential zones and the compliance of the application with the controls is addressed in the following table.

DCP 2013 Section 3 Non Residential Development in Residential Zones - Compliance Table

Council's Development control plan does not contain any section which specifically deals with *Educational Establishments* however *Educational Establishments* are to have regard for the provisions of Section 3 Accordingly, the following table is provided for the consideration of the Panel.

Please note: Sections of the DCP clearly not applicable to the development have not been included in the assessment table.

Control	Proposed	Complies
3.2.1 Topography Development should not result in a finished ground level greater than 500mm from existing ground level	Excavation and topographical changes exceeding 500 mm are required for the works to and surrounding the new multi-purpose hall. Given the setbacks involved surrounding the Hall no objection is raised to this component of the development. All other topography surrounding the existing building to be retained.	No, but acceptable
3.2.5 Noise Specifies noise criteria for assessment of noise impacts from uses in residential zones	<u>Construction Phase</u> The acoustic report flags that there may be some excessive noise generated during construction works. Further details however are required to establish what management and noise mitigation measures can be implemented to ensure acceptable levels of residential amenity are maintained. <u>Operational/Ongoing Noise</u> Once operational there is potential for noise impacts from mechanical plant, school announcements and bells, noise from hall operations and noise from outdoor play. The report also recommends door and glazing type, and an acoustic rating for walls and ceiling. Details of the mechanical plant are not available as yet but the combined noise output of all mechanical plant on the premises will be	No, but acceptable subject to conditions

	required to comply with the background +5db rule and is included in the recommended conditions of development consent that this requirement be adhered to. Recommendations are given in the acoustic report to address noise from school announcements and bells and is included in the recommended conditions of development consent that this requirement be adhered to. The report advises that out of hours events to be held in the hall will require windows and doors to the hall to be kept closed to ensure amenity to surrounding residents is preserved. In this regard it is likely that the hall will require air conditioning or the like for use of the hall after hours during warmer weather. It is anticipated that noise impacts will occur to some residents from the outdoor play area when in use and is included in the recommended conditions of development consent that this requirement be adhered to. This includes management of the new rooftop space on top of the existing building. Additional use outside of traditional school hours would need to be managed to minimize adverse impacts.	
3.2.7 Artificial Illumination Requires the glare impact of illumination to be minimised	No detailed information is provided in relation to proposed lighting.	No, but a condition of consent is recommended requiring the minimization of light spill.
3.2.8 Views Developments are to protect views from residential properties	The proposal will not result in any adverse view losses.	Yes
3.2.9 Solar Access Development shall not overshadow the solar panels, windows of living areas, communal open space or principal areas of private open space such that solar access is reduced below 3 hours between 9am and 3pm at midwinter.	The new hall will result in some additional overshadowing to 11 Rodborough Avenue. The northern elevation and rear private open space will be impacted in the morning and noon hours. It is assumed living areas are at the rear of the building opening on to open space. Rooms at the front of the dwelling are likely to be bedrooms. The proposal will not impact east and west elevations so living rooms and bedrooms will receive sun from those directions. The hall will result in additional overshadowing at 3pm to 346, 350 & 352 Miller Street; we have assumed these rooms at the rear of the property are likely to be bedrooms, and that	No, the noted impacted premises will experience increase solar impact however will generally be to acceptable levels. acceptable solar impact. <i>Refer to further discussion after the table.</i>

	living areas are orientated north to capture adequate solar access.	
3.2.12 Visual Privacy Developments are required to be designed to maintain the privacy of neighbours	Privacy will be maintained through landscaping along the northern and eastern boundary adjacent to the proposed hall and retention of numerous mature trees as well as fencing. The hall will maintain a one-storey interface to residential uses to protect resident's amenity and privacy. Changes rooms and ancillary storage rooms border the northern and eastern extents of the hall for extra buffering measures. The new rooftop outdoor area proposed to the main building is also not considered to give rise to adverse overlooking impacts on account of the separation to property boundaries and temporal nature of the usage to the roof. Nearby residents will not be unfairly impacted in terms of visual privacy. The number of staff and students when compared to the TAFE is less.	Yes
3.3.5 Siting Buildings are to be sited to relate to neighbouring buildings and are to be within a single built form addressing the street, with walls parallel to the boundaries.	The new multi-purpose hall is a separate distinct building but has direct links to the adjoining existing buildings. The design and siting of the hall has endeavored to maximize separation to adjoining residential buildings whilst providing for school requirements. The siting is positioned further north to minimize the solar access impacts to the dwellings to the south.	satisfactory
3.3.6 Setbacks Front setbacks are to match adjoining buildings. Side setbacks on R4 land are to be a minimum of 1.5m, but must comply with a building height plane commencing at 3.5m above ground level at the side boundaries and projecting into the site by 45°. The building height plane applies to the rear setback.	The front setback to West Street will be unchanged. • 17.16m to the southern boundary; • 2.785m to the northern boundary; and; • 7.725m to the eastern boundary. The multi-purpose hall proposal exceeds all minimum setbacks as required in the DCP and well as exhibits only minimal breaches to the building height plane control (a line commencing at 3.5m above ground level at the side boundaries and projecting into the site by 45°). Generally, the setbacks as proposed are supported in the circumstances. Matters of concern arising out of building siting are generally considered to be resolved via the general design and recommended conditions	Yes – Setbacks Minor supportable breaches to the Building Height Plane control.

	of development consent.	
3.3.7 Form, Massing & Scale Requires the apparent length of a building to be broken down using articulation, the use of high quality materials, use of materials and finishes that relate to surrounding buildings.	The design responds to this control via the use of stepping the low pitch skillion roof form to minimize perceived bulk and scale of the building and steps down from the overriding building of the existing four storey building. The new hall is an appropriate transitional form from the main existing building stepping down to the surrounding lower density residential forms. The development is acceptable in this regard.	Yes
3.3.8 Entrances and Exits Requires main entrances to be visible from the street and be provided with a continuous accessible path of travel.	All existing entry points to the site are maintained being West Street, Rodborough Avenue and the pedestrian link to Ernest Street.	Yes
3.3.9 Colours and Materials Colours and materials are to be reflective of those in the area, using natural colours and tones, with a high proportion of masonry to glass.	The materials and colours reflect the use of the building and are not consistent with those used in the area. Notwithstanding this it is considered that the colours and materials are satisfactory.	No, but acceptable
3.3.10 Front Fence Fences should be characteristic of those in the area and should not include tall security fencing.	Due to the nature of the use a security fence is needed. In this regard a 2.1m high security fence is proposed and required along the all major boundaries of the site. Please refer to the Landscaping Plan suite for details of the remaining fencing types to surround the borders of the site The new fencing as applicable will be installed within the site boundaries and softened with landscaping where possible. All existing boundary residential fences will be remained in situ.	No, but acceptable
3.4.1 Accessibility The building is to be designed with appropriate accessibility for persons with disabilities	Recommended conditions are proposed.	Yes subject to conditions
3.4.2 Safety and Security Buildings are to be designed for casual surveillance	The main building incorporates windows overlooking streets car parks and outdoor spaces, allowing for natural surveillance.	Yes
3.4.3 Vehicular Access & Car Parking Should be provided underground or screened from public view and designed to allow entrance and exit in a forward direction.	The parking is an existing area and allows for forward movements of cars. Post development, through site movement for buses will be possible.	Yes

3.4.4 Site Coverage Site coverage is to be a maximum of 45% of the site 3.4.5 Landscaped Area A minimum landscaped area of 40% and maximum unbuilt upon area of 15% applies.	Part B Section 3 provides for site coverage, unbuilt upon area and landscaped area requirements however there are no specific to an <i>Educational Establishment</i>. The site is surrounded by R4 Zone – High Density and assuming development equivalency for a new Residential flat building on site, the site coverage, unbuilt upon area and Landscaped area requirements would be 45% max, 40% min and 15% respectively. Whilst no compliance diagrams are provided in the application package the proposal would be incapable of complying with the requirements in light of the retrofit of the existing building and new indoor and rooftop facilities proposed. As the development is a specific development and is required to meet the Department of Education requirements, strict application of Council's Site Coverage and Landscaping compliance is unreasonable in the circumstances. The site post development will still retain significant tracts of deep soil to the north of the existing building.	No but acceptable
3.5 Efficient Use of Resources Requires buildings to be constructed in an ecologically sustainable manner.	The works will involve a significant upgrade to the existing buildings including the provision of new energy efficient and water saving fixtures and fitting. Additionally, a substantial solar array is proposed to the roof of the main building. Former unused rooftop areas will be refitted to allow for access and use by the student body.	Yes

Discussion of Solar Impact

Shadow Diagrams for 9am, midday and 3pm at the Winter Solstice accompany the Architectural Plans prepared by TKD Architects and are included in the attached plan suite.

The diagrams demonstrate that the new hall will not have any significant shadow impacts on most adjoining properties. No. 11 Rodborough Avenue will be impacted in the morning and midday hours because of its location immediately south of the new multi-purpose hall. The east-west orientation of the school site results in unavoidable impacts to the southern property.

Additional overshadowing to 11 Rodborough Avenue at 9am and 12pm on 21 June. This property is a single storey dwelling to the south. The existing fence would cast significant shadow. The new hall will result in some additional overshadowing. It is assumed that the living areas are at the rear of the building and bedrooms are at the front. At 9am, the proposal impacts all windows on the northern elevation. Living room windows are impacted at midday when the solar impact will be at its peak. However, sunlight is maintained to the bedrooms. The proposal maintains the same level of shadow to 11 Rodborough Avenue at 3pm, with sunlight penetrating the rear living room window. The open space and living room will receive easterly sun in the morning and in the afternoon hours. While the proposal impacts the northern elevation, sunlight will be maintained from an easterly direction in the mornings and this is considered acceptable. The figure below depicts the impact:

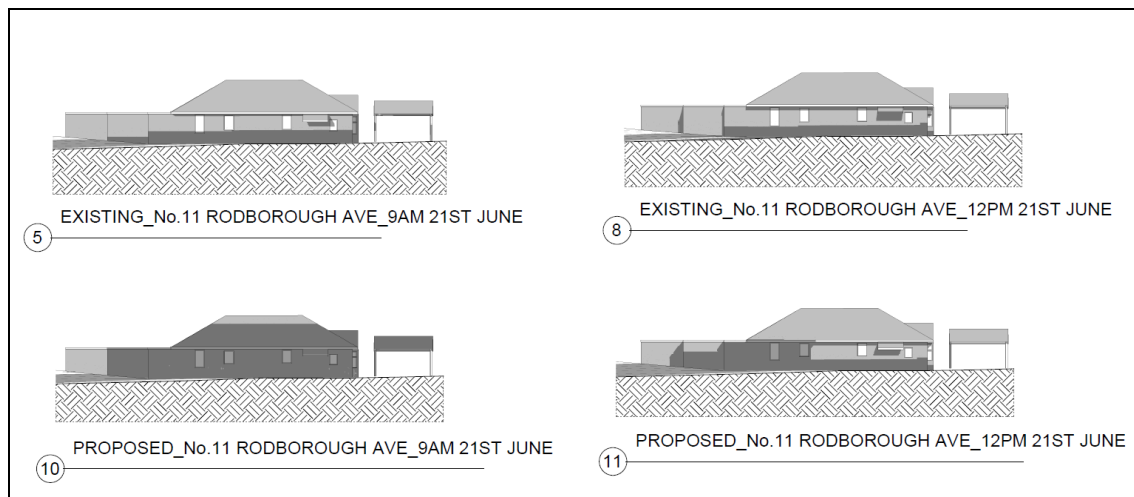


Figure 6: Elevational solar impact to 11 Rodborough Avenue, Crows Nest

Additional overshadowing to 346-360 Miller Street at 3pm on 21 June. Nos. 346-360 Miller Street are residential flat building to the east of the site. Residences 346, 350 & 352 Miller Street will experience an increase in overshadowing at 3pm on 21 June as a result of the proposed multi-purpose hall. It is assumed that the living areas are orientated north to maximise solar access and bedrooms are at the rear. At 9am and 12pm, the proposal will not increase existing levels of overshadowing. Bedroom windows are impacted at 3pm. However, sunlight is maintained to the living areas. While the proposal impacts the western elevation, sunlight will be maintained from an easterly direction in the mornings and will exceed minimum requirements for solar access. Refer to the figure below.



Figure 7: Elevational solar impact to 346-360 Miller Street, Crows Nest

Overshadowing impact are therefore considered acceptable in the circumstances. The indicative overshadowing to 11 Rodborough Avenue and 346-352 Miller Street is unavoidable due to the highly constrained nature of the site; the size and location of the multi-purpose hall was examined during the design development phase and this location and roof design was determined to be most appropriate. The multi-purpose hall will provide a high-class school and community facility for the community's benefit.

Suspensions of Covenants, agreements and similar instruments

Council is unaware of any covenants, agreements or the like which may be affected by this application.

SECTION 94 CONTRIBUTIONS

No section 94 contribution is applicable to the application which is for social infrastructure that supports the needs of the residents of the area.

ALL LIKELY IMPACTS OF THE DEVELOPMENT

All likely impacts of the proposed development have been considered within the context of this report.

ENVIRONMENTAL APPRAISAL	CONSIDERED
1. Statutory Controls	Yes
2. Policy Controls	Yes
3. Design in relation to existing building and natural environment	Yes
4. Landscaping/Open Space Provision	Yes
5. Traffic generation and Carparking provision	Yes
6. Loading and Servicing facilities	Yes
7. Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes
8. Site Management Issues	Yes
9. All relevant S79C considerations of Environmental Planning and Assessment (Amendment) Act 1979	Yes

SUBMITTERS CONCERNS

Issues raised by submitters include:

- *Don't support the decommissioning of TAFE and repurposing of a more intensive high school premises*

Planning Comment: The proposed refurbishment and new works to convert the premises from one form of *Educational Establishment* (TAFE) to another conforming Educational Establishment (High School) is a permissible proposal in a zone specific site for an educational establishment. In light of the applicant being a Public Authority (Department of Education), Council has no scope to impede the proposal in this regard.

Assessment of the proposal with regard to the intensity of the conversion does not support any conclusion that the new School will be an overdevelopment of the site.

- *Concern of increase traffic congestion*
- *Impacts to parking / loss of parking upon the existing site*
- *Impacts to Parking on West Street, Rodborough Avenue and surrounding roads*
- *Movement of traffic through sites including buses*
- *Pick up / drop off zones*

Planning Comment: Neither Council's Traffic Department nor the Roads and Maritime Service have raised concern that the proposed school will result in unacceptable local traffic impacts

The loss of parking from the site is supported by Council's Traffic Section to the extent that their recommendation is the parking should be further reduced. The levels of parking proposed to be retained on site is supported on planning ground to support future flexibility of use of the site and student numbers

With regard to pick up / drop off zones, The Roads and Maritime Service support the provision of a dedicated pick up and drop off zone on Ernest Street. This matter, being outside of the school bounds is a matter which can be negotiated and resolve via Council's Traffic committee to the satisfaction of all parties prior to the occupation of the school.

Council has the ability to further independently make consideration to alter the sign-posting of the remaining on street parking spaces via the Traffic Committee, however such controls are outside the matters to be considered in this application. It is the prevailing conclusion of this report that there are no unresolved determinative traffic and parking matters associated with this application.

- *Increased pedestrian's safety risks to school children.*

Planning Comment: Whilst the concern is noted, the proposal is for a high school premises and in this regard, some measure of responsibility must be credited to students who will attend the school without requiring constant adult supervision. The school offers multiple pedestrian entry points at Ernest, West and Rodborough Avenue and as such, no singular pedestrian access point will bear the total brunt of pedestrian access and will assist in the dispersal of students walking to and from the school.

- *Inadequate setbacks/separation privacy impacts to adjoining residential buildings*

Planning Comment: The design has endeavoured to minimise privacy impacts (both from a visual and acoustic perspective) to adjoining residential properties. Further, acoustic impacts are to be managed via the recommendations included in the acoustic report. The setbacks to adjoining residential premises is considered to be acceptable in this circumstances.

- *Raise concern over solar access of the development. No apparent justification is provided beyond the site being constrained.*

Planning Comment: The design of the proposal has had regard for impacts of the new school buildings proposed upon the site. With regard to Solar Access, a detailed discussion of the impacts in discussed under the DCP assessment of the proposal. The levels of solar impact are considered acceptable in the circumstances.

- *Traffic assessment is inadequate nor has properly considered constructional impact.*
- *Concern over construction impact and potential for impact to residential amenity*

Planning Comment: Constructional impact has been considered in the associated traffic report attached to this report. Conditions are included in the recommended conditions for the management of constructional impacts.

- *Hours of operation are too long and would impact residents*
- *Noise (proposed and the difference between the existing TAFE operation)*
- *Noise management plan required*
- *Outdoor areas should be limited to a maximum of 2 hours a day*
- *The fencing is inadequate for noise attenuation and brick fencing should be provided*

Planning Comment: These concerns all relate to noise and have been addressed in the body of the report. It is agreed that there is a potential for the school use to have an unacceptable impact upon the acoustic environment of surrounding residents unless an appropriate mix of physical and management mitigation measures are included in the proposal. The following requirements are included as recommended conditions of consent.

Existing residential fences to remain in situ and softened with landscaping as applicable.

- *Loss of trees on the Land*
- *Loss of Green space on site*

Planning Comment: The trees of concern have had endorsement for removal by Council's Landscaping Officer. Generally, the applicant has endeavoured to minimise the loss of the trees and landscaped area upon the site.

The new multi-purpose hall has been designed to budgetary constraints, the needs of the school and also have regard for the retention of green space upon the site.

New landscaping is proposed to overcome the loss of trees and provide amenity to the site. A variety of spaces (indoor and outdoor) are proposed to meet the needs of the needs of the student body including the new rooftop area and retained outdoor area on the northern side of the existing building.

- *Buildings should be planned to allow community use*
- *The multi-purpose hall should be larger to facility future flexibility of use*

Planning Comment: The proposal has been designed to allow for potential community uses of some of the areas of the school as has been discussed throughout the report. Conditions of consent are recommended in order to ensure noise impacts are appropriately minimized.

The design of the multipurpose hall reflects the maximal building which can be provided upon the site under the current budgetary allowances (confirmed by the Minister). Whilst the request for consideration of a larger building upon the site by certain segments of the community is noted, the provision of a bigger building upon the site is outside the scope of Council's consideration on the matter and this Development Application.

CONCLUSION

The proposal is for a 600 place high primary school in a location experiencing significant growth of student population and is considered to be generally appropriately designed in terms of height, bulk and scale for the site having regard to the larger surrounding residential buildings.

Assessment of this application and consideration of the issues raised in the submissions do not result in any issue which is not either otherwise acceptable or cannot otherwise be managed via recommended conditions of development consent

Afterhours use for community purposes is a matter for the school community and Principal after the completion of the school. Given the dense residential setting of the site any afterhours use will need to be carefully managed to minimise adverse impacts.

Management and resolution of parking and traffic matters external to the site can be resolved to the mutual satisfaction of Council and the proponent via Council's Traffic committee prior to the occupation of the school.

Following assessment of the plans and associated information, the development application is recommended for **approval**.

NEGOTIATION OF CONDITIONS OF CONSENT

As the application has been lodged by a Public Authority (Department of Education), the SNPP cannot impose conditions without the agreement of Public Authority. The SNPP cannot refuse the application or impose conditions that are not agreed to and can only make a recommendation to the Minister to refuse the application or to impose conditions that are not agreed to.

Due to the above restriction on the power of the SNPP, negotiations have been undertaken with Public Authority and their representative to come to an agreed position in relation to the recommended conditions. The Authority / Applicant has been sent draft conditions of consent on 19 October 2017, however, to date, a response is yet to be forthcoming regarding the conditions tendered. It is anticipated that the conditions will be resolved prior to the determination meeting scheduled on 8 November 2017. In this circumstance, the Panel Secretariat will be notified as soon as possible.

RECOMMENDATION

PURSUANT TO SECTION 80 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

- A. **THAT** the Sydney North Planning Panel grant consent to Development Application No. 214/2017 for refurbishment of existing buildings and construction a new multipurpose hall for a high school with associated playgrounds, parking and landscaping at No. 149 West Street. Crows Nest, subject to the attached conditions:-

Kim Rothe
ACTING EXECUTIVE PLANNER

Stephen Beattie
MANAGER DEVELOPMENT SERVICES
