

COUNCIL ASSESSMENT REPORT

Panel Reference	2018SCL039
DA Number	2017/0466
LGA	City of Canada Bay Council
Proposed Development	Demolition of demountable buildings along south eastern side boundary, alterations and substantial two storey addition to existing education facility, St Mark's Catholic Primary School
Street Address	35 Tranmere Street, Drummoyne
Applicant/Owner	St Mark's Primary School and Trustees of the Roman Catholic Church for the Archdiocese of Sydney
Date of DA lodgement	10 November 2017
Number of Submissions	Four (4)
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Schedule 7(5) of the <i>State Environmental Planning Policy (State and Regional Development) 2011</i> - Private infrastructure and community facilities over \$5 million
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • Clause 4.6 variation to 8.5metre maximum Building Height control of the Canada Bay LEP, 2013 • Locally listed Heritage Item and located within a Heritage Conservation Area
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Architectural Plans • Clause 4.6 variation to Building Height control
Report prepared by	Shannon Anderson
Report date	31 July 2018

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

Yes

Legislative clauses requiring consent authority satisfaction

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

Yes

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

Clause 4.6 Exceptions to development standards

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

Yes

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (\$7.24)?

No

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

Conditions

Have draft conditions been provided to the applicant for comment?

Yes

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

ITEM **35 TRANMERE STREET, DRUMMOYNE (2018SCL039,
DA 2017/0466) ST MARK' PRIMARY SCHOOL**

Council: **City of Canada Bay Council**

Author: **Shannon Anderson**

EXECUTIVE SUMMARY

Owner

St Mark's Primary School and Trustees of the Roman Catholic Church for the Archdiocese of Sydney.

Applicant

Thomson Adsett (Paul West)

Zoning

The proposed development defined as a School is permissible with consent within the R3 Medium Density Residential zone under the Canada Bay Local Environmental Plan, 2013.

Proposal

Demolition of demountable buildings along south eastern side boundary, alterations and substantial two storey addition to existing education facility, St Mark's Catholic Primary School.

Issues, including those matters raised by objectors

Streetscape, traffic, visual and acoustic privacy, overshadowing and building height.

Value of development

\$7,255,898

Reason for referral to the Panel

Schedule 7(5) of the *State Environmental Planning Policy (State and Regional Development) 2011* - Private infrastructure and community facilities over \$5 million.

Location



<i>Subject Site</i>		<i>Properties Notified</i>		<i>Submitters</i>		<div>↑</div> North
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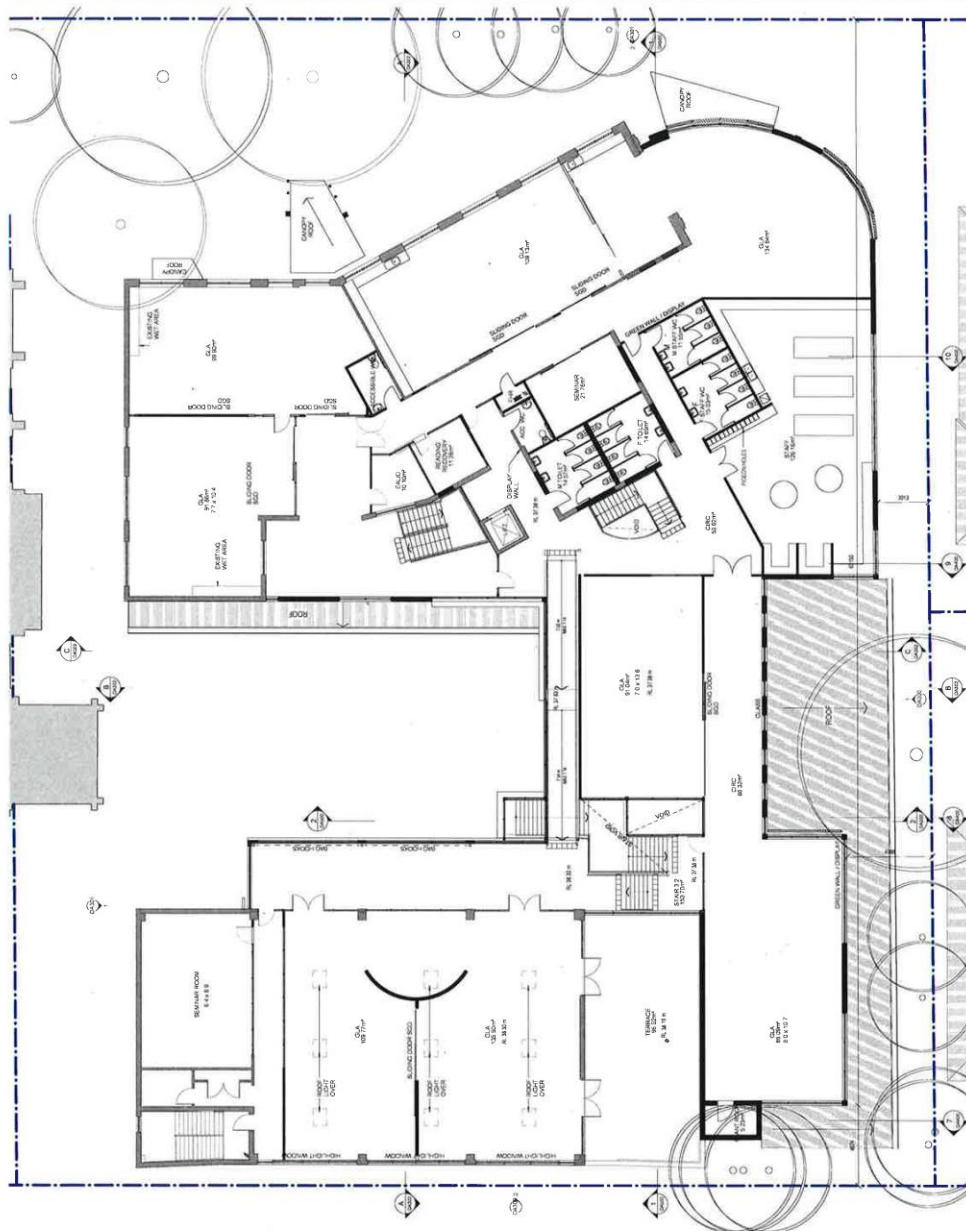
**St Mark's Catholic
Primary School**

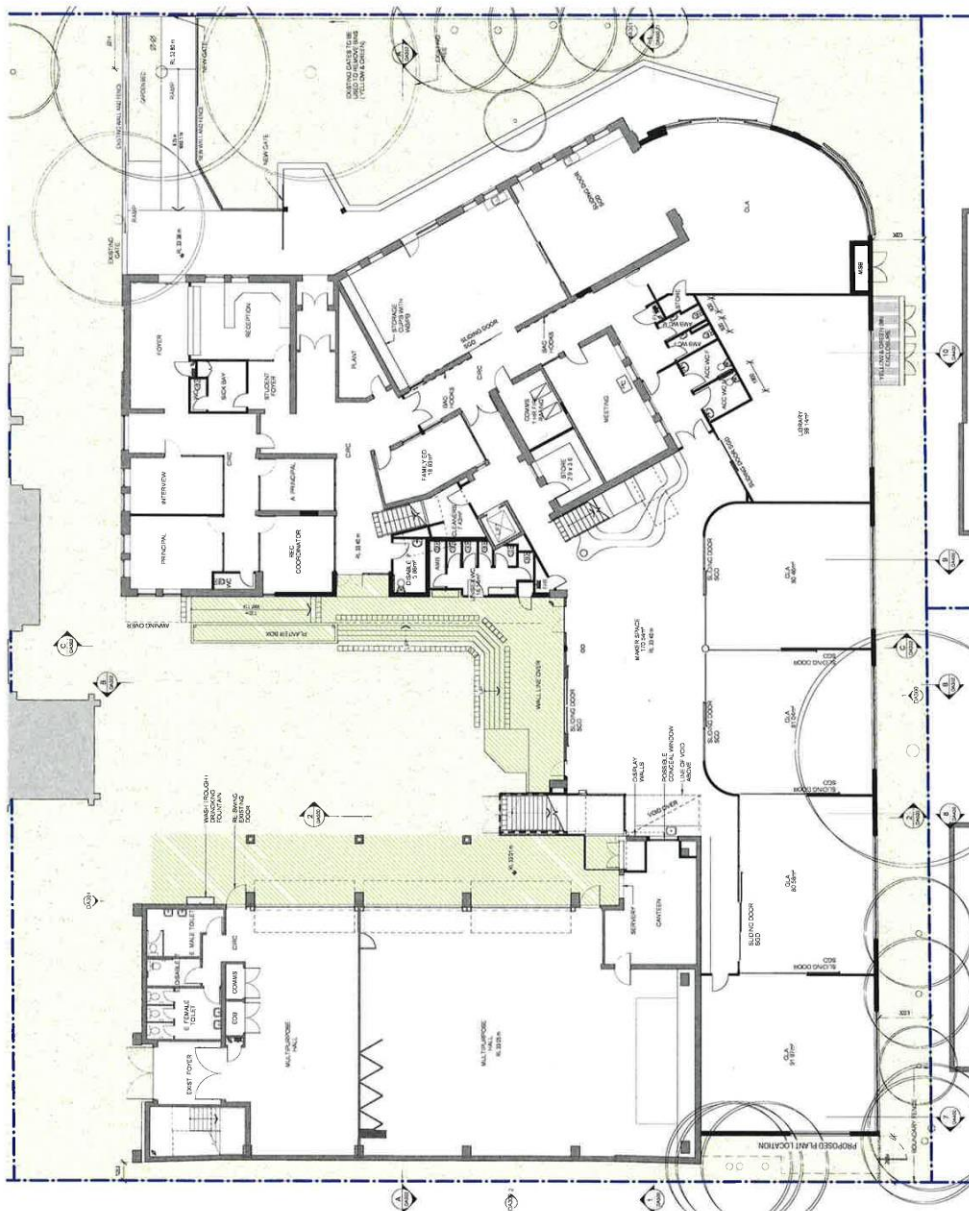


311 Taramore Street, Durrigayn NSW
2007



PROJECT: ST MARK'S CATHOLIC PRIMARY SCHOOL
DATE: 11/11/2010
DRAWN: [Name]
CHECKED: [Name]
SCALE: 1:200
SHEET: 1 OF 1
PROJECT NO: DA101
DATE: 16/08/12
DRAWN: [Name]
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SCALE: 1:200
SHEET: 1 OF 1
PROJECT NO: DA101
DATE: 16/08/12



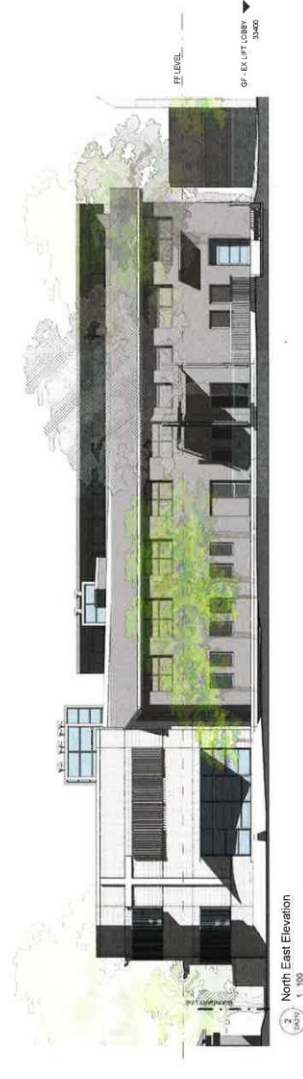
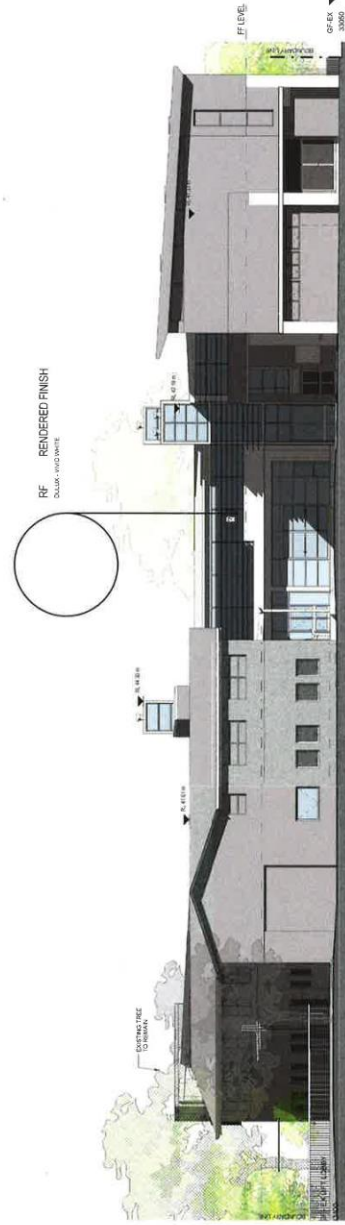


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St Mark's Catholic
 Primary School





REPORT

1. BACKGROUND

10 August 2017, pre-lodgement comments were provided to the applicant on a near identical proposal to the subject application. Matters raised in the pre-lodgement process related to; setback of the new curved façade from Tranmere Street, visual and acoustic privacy along the south-east boundary, tree removal, and stormwater management. The matters raised in the earlier application are considered to be resolved and are discussed in greater detail further in this report.

22 March 2018, additional information was submitted by the applicant which included clarification on the following matters; 1.8metre frosted glass windows to the new classrooms on the south-east elevation, and elevational shadow diagrams demonstrating the impact on the adjoining dwelling at 27 Tranmere Street in mid-winter.

2. THE SITE AND ITS CONTEXT

The subject site is known as 35 Tranmere Street, Drummoyne. The site is zoned R3 Medium Density Residential pursuant to the Canada Bay Local Environmental Plan, 2013.

The site is located within the Bourketown Heritage Conservation Area, contains a locally listed heritage item St Marks's Catholic School and grounds. The Drummoyne Reservoir is a locally listed heritage item located to the north-west of the site (located 100m away). No other items adjoin the site's boundaries.

There are a small row of single storey dwelling houses immediately to the south of the school, which will be directly adjacent to the expanded classrooms.

3. PROPOSED DEVELOPMENT IN DETAIL

The application seeks approval for the alteration of the existing school buildings, demolition of some later structures and redevelopment of the central courtyard and southern section of school buildings to upgrade and expand the classroom accommodation for the site.

There will be some minor landscaping works to reconfigure planter beds and rationalise landscaping and the removal of a tree to the eastern corner (fronting Tranmere Street) of the site.

There is to be no change to the total number of students enrolled in the school.

4. PUBLIC SUBMISSIONS

In accordance with Council's Notification Development Control Plan, adjoining and nearby property owners and occupiers were advised of the

proposal and invited to comment. The notification generated four (4) submissions objecting to the proposal.

Submissions Received from Adjoining Property Owners:

Submitter	Objection/ Issue Raised	Outcome
Mr C Booth 27 Tranmere Street, Drummoyne	Overshadowing	There will be a slight increase in the shadow cast by the proposed development to portions of two windows between mid-morning and midday during mid-winter. Matters of solar access are discussed further in this report.
	Request that the noise mitigation measures are installed	A condition has been recommended to be placed on any consent requiring the implementation of all acoustic recommendations identified in the acoustic report prepared by Day Design, reference 6096.1.1R.
	Visual Privacy of rear outdoor area	All ground floor and first floor windows that serve classrooms and staff rooms on the south-east elevation are to comprise obscure glass to a height of 1.8metres above finished floor level.
	Traffic	The application does not seek to increase the student or staff numbers of the school. The application relates mainly to the improved rationalisation of teaching spaces to serve the existing school population numbers.
	Streetscape impacts from curved wall	The proposal has been assessed against the heritage provisions of the LEP and DCP further in this report and was found to be acceptable. The curved wall will not extend closer to Tranmere Street than the existing school buildings and the new works will provide a suitable transition to the low scale residential dwellings to the south.
Mr P & Mrs S Coombes 25 Tranmere Street,	Streetscape impacts from alignment, curved wall and loss of tree.	The proposal has been assessed against the heritage provisions of the LEP and DCP further in this report and was found to be acceptable.

Drummoyne		<p>The curved wall will not extend closer to Tranmere Street than the existing school buildings. The new works will provide a suitable transition to the low scale residential dwellings to the south.</p> <p>The removal of the tree from the eastern corner of the site was supported by Council's landscape architect. However, it has been recommended that the Tree <i>Lophostemon spp.</i> which is proposed to be removed for the new pathway north-east corner is in good health condition and worth keeping.</p> <p>It is therefore recommended that the new pathway be moved to the middle of two trees, so that the pathway to each tree trunk will still have approx. 2m distance. Both trees can be retained in this way.</p>
	Traffic	As discussed above
Mr J Tsun 64 Thompson Street, Drummoyne	Traffic	As discussed above
Mr T Clarke 24 Therry Street, Drummoyne	Traffic	As discussed above

5. ASSESSMENT UNDER SECTION 4.15 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

5.1. Environmental Planning Instruments [Section 4.15 (1) (a) (i & ii)]

5.1.1. State Environmental Planning Policies

The proposed development is subject to the following State Environmental Planning Policies.

State Environmental Planning Policy (Infrastructure) 2007

The SEPP aims to facilitate infrastructure delivery across the State by improving regulatory certainty and efficiency through a consistent planning regime for infrastructure.

Clause 32 states that a consent must take into consideration all relevant standards contained in the following State government publications:

- School Facilities Standards – Landscape Standard – Version 22 (March 2002)
- Schools Facilities Standards – Design Standard (Version 1/09/06)
- Schools Facilities Standards – Specification Standard (Version 1/11/08)

Whilst not a direct matter for consideration in this assessment the layout and design of the new buildings and outdoor playground area will be consistent with the relevant Educational Facilities Standards and Guidelines.

State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 - (Education SEPP)

Schedule 4 of the Education SEPP outlines the design quality principles that are proposed for consideration of applications for school developments.

Design Quality Principle	Comment
Principle 1 – Context, Built Form and Landscape	<p>The proposed works have been designed to have a positive impact on the streetscape by curving the new works to allow a greater transition between the school and the neighbouring dwellings.</p> <p>The proposed alterations and additions will enhance the overall appearance of the school by removing demountable buildings and integrating the new works into the existing school buildings.</p> <p>To ensure compatibility with the heritage listed St. Marks Church the design of the new building has been undertaken in conjunction with a heritage consultant and landscape architect.</p> <p>Landscaping works to the central courtyard enhance the space created for the school children, whilst the landscaping along the eastern side setback will enhance the amenity of the neighbouring dwelling.</p>
Principle 2 – Sustainable, Efficient and Durable	<p>Environmental quality of the proposal will be assured through the optimisation of solar access and natural light and ventilation to the new classrooms and the re-fit of existing buildings to enhance the environmental quality of internal spaces, integration between buildings and transitions to outdoor spaces.</p> <p>Materials have been specifically selected for their high durability and low maintenance.</p> <p>Construction waste will be reused and recycled where possible.</p>

Principle 3 – Accessible and Inclusive	The submitted BCA report demonstrates that the proposal will be capable of compliance with the accessibility requirements of the BCA. The new building incorporates ramped access, lifts and accessible spaces.
Principle 4 – Health and Safety	<p>The new layout, which results in the removal of demountable buildings and replacement with integrated classrooms will result in a more secure, accessible layout with enhance surveillance opportunities.</p> <p>Improvements to landscaping and window arrangements along the eastern setback and eastern façade greatly improve amenity and interface for neighbouring residential properties.</p>
Principle 5 – Amenity	<p>The proposal will provide a purpose-built facility which has been designed to incorporate high quality learning spaces in accordance with current education best practice. The new building will incorporate updated learning spaces and student support facilities.</p> <p>Landscaping will improve playground amenity and provide a buffer to the neighbouring dwellings to the east.</p> <p>Window placement on the side elevations will optimise natural light and with obscure glass to a height of 1.8metres will not allow for the direct overlooking of neighbouring residential properties.</p>
Principle 6 – Whole of Life, Flexible and Adaptive	<p>New building footprints preserve the majority of existing playground space as well as provide transition space for outdoor use which is suitably protected from the weather.</p> <p>The internal layout incorporates a combination of small and large flexible learning spaces which incorporates partitions that allow for the adaptable use of each space for a variety of uses. The building will be constructed to allow for the future adaptable use of the building to cater for the current student capacity and future demand.</p>
Principle 7 – Aesthetics	The proposed building materials are appropriate to the existing built environment and activities, and draw from the existing buildings whilst reflecting a more contemporary approach linked to the learning environment. The proposed materials provide an overall neutral palette, which complements the existing heritage buildings on-site and the surrounding residential context.

State Environmental Planning Policy 55 - Remediation of Land (SEPP 55)

According to clause 7 of SEPP 55 Council may not consent to the carrying out of any development on land unless it has considered whether the land

is contaminated, and if the land is contaminated, it 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.

A review of Council's development history for the site it is concluded that there is no reason to suspect that the site is contaminated. It is noted that the site has been used for an extended period as an educational establishment and place of public worship. There is no known evidence to suggest that the site is contaminated or requires remediation.

5.1.2. *Local Environmental Planning Instruments*

The proposed development, defined as a *School* is permissible with the consent of Council, within a Medium Density Residential R3 zone under Canada Bay Local Environmental Plan, 2013. Following is a summary table indicating the performance of the proposal against relevant statutory standards.

Statutory Standards (Canada Bay LEP)

<i>Control</i>	<i>Standard</i>	<i>Proposed</i>	<i>Compliance</i>
Clause 4.3 – Height of Buildings	Max. 8.5metres	11.8metres	No
Clause 4.4 – Floor Space Ratio	Max 0.5:1	0.45:1	Yes
Clause 6.12 – Acid Sulfate Soils	Class 5	No works below 5m AHD	Yes

As indicated in the compliance table, the proposed development does not comply with the maximum building height standard in Clause 4.3 of the Canada Bay Local Environmental Plan. The applicant has provided a written submission seeking variation to this development standard under Clause 4.6 of the Canada Bay Local Environmental Plan, 2013. The written submission has been assessed as follows:-

1. What Clause is sought to be varied:

Clause 4.3(2) of the Canada Bay Local Environmental Plan 2013 (CBLEP 2013) states that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. The Height of Buildings Map shows that the maximum height permitted for a building on the subject land is 8.5m.

The applicant is seeking to vary this development standard by up to 3.3m with the highest point of the new being the roof, rooftop plant of the multipurpose hall fronting South Street. The majority of new works are positioned below the maximum 8.5metre height control as depicted in the image below.

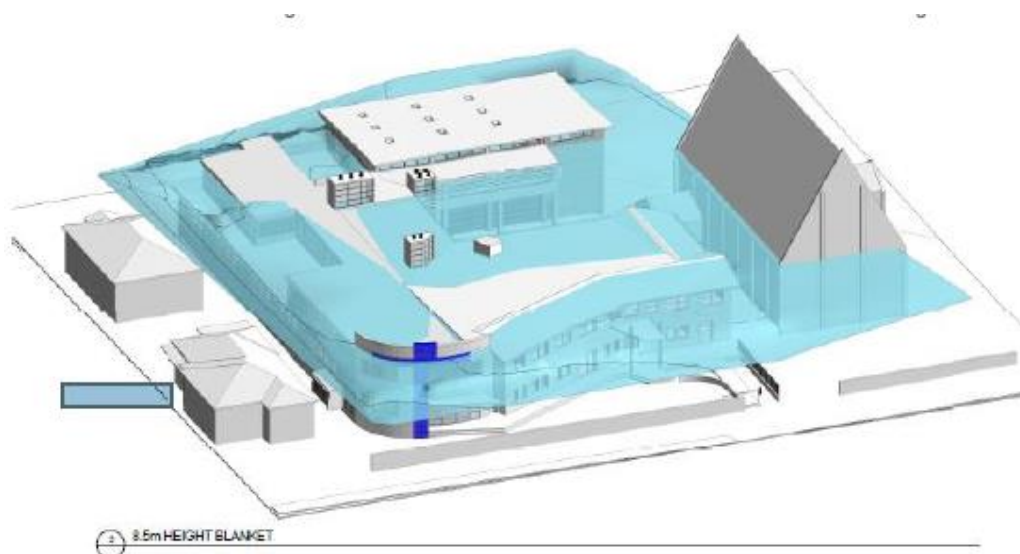


Figure 1 – Building Height Overlay (Source: applicant)

2. Clause 4.6 Objectives:

The following objectives are contained in Clause 4.6 of the Canada Bay Local Environmental Plan 2013:-

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and

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

In consideration of the applicant's written submission, Council is satisfied that it is appropriate to invoke the provisions of Clause 4.6 to vary the height of buildings development standard in order to achieve a better planning outcome for the development of the subject site by allowing flexibility in the application of the maximum building height given the circumstances of the development proposal as follows:-

- The proposal includes the retention of the existing school hall adjacent to South Street and the original two storey school buildings fronting Trannmere Street. These existing buildings dominate the visual appearance of the school as viewed from both streets and both buildings slightly exceed the height of buildings control. In conjunction with the existing church (which significantly exceeds the height of buildings control), the existing development on the site has a height and roof form which are non-compliant with the height of buildings control.
- The proposed additions and alterations have been designed to be well integrated with the finished floor levels, ceiling heights and roof levels of those buildings to be retained. Therefore it is reasonable to anticipate that the new building works are of a

similar scale and height to the existing non-compliant buildings. Despite the need to be integrated with the existing buildings, the new works have been designed with low-pitched metal roofing and the majority of the new building works are below the 8.5m height control.

- The first floor level of the new buildings has been set back significantly (over 3metres) from the south eastern side boundary. This increased setback greatly reduces the visual impact of bulk and scale in comparison to the existing buildings as viewed from the adjoining residential properties to the south east.
- The lift overrun exceeds the building height control but is located in the centre of the site and will not be visible from adjoining public spaces or from neighbouring residential properties.
- The new building will reinforce the existing built fabric and layout of the school replacing older demountable buildings which are not fit for purpose.
- Proposed building materials are appropriate to the existing built environment and activities, drawing from the existing buildings whilst reflecting a more contemporary approach linked to the learning environment.

3. Clause 4.6(3) Provisions:

Sub-clause (3) of Clause 4.6 of the CBLEP 2013 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 the following:

(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 consideration of the applicant's written submission, Council is satisfied that it is unreasonable and unnecessary to require strict compliance with the maximum building height development standard under Clause 4.3 (2) of the CBLEP 2013, and that there are sufficient environmental planning grounds to justify contravening the building height standard for the reasons set out below.

Council is also satisfied that the proposed development is in the public interest because it is consistent with the following objectives of the building height development standard as contained in Clause 4.3(1) of the Canada Bay Local Environmental Plan, 2013 (which state as follows), for the reasons set out below:-

(a) to ensure that buildings are compatible with the desired future character in terms of building height and roof forms,

(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development.

- The majority of the new works will not be readily visible from the adjoining streets as the existing school hall and the original two storey school buildings are to be retained and these buildings dominate both street presentations. The first floor level of the new buildings has been set back significantly from the south eastern side boundary. This increased setback greatly reduces the visual impact of bulk and scale in comparison to the existing buildings as viewed from the adjoining residential properties to the south east.
- The works will not obstruct any existing views across the site from neighbouring properties.
- Overlooking towards neighbouring residential properties to the south east will be notably reduced in comparison to the existing built form due to:
 - An increase in the setback to the south eastern side boundary;
 - Installation of privacy screens to the upper storey windows oriented to the south east;
 - Installation of acoustically treated openings in the south east façade as recommended by the Environmental Noise Assessment submitted with the development application; and
 - Installation of landscaping and retention of existing trees within the setback to the south eastern side boundary.
- Solar access to the neighbouring properties to the south east will be improved in comparison to the existing school buildings with the increased setbacks of the new works.
- The new building works have been designed in consultation with Heritage Consultants to ensure that the works are compatible with the heritage character and curtilage of St Marks Church and with the Bourketown Heritage Conservation Area. The proposal retains the majority of the built form visible from both street frontages and the new works are mostly concealed from view from both streets.
- The proposal provides for a floor space ratio which complies with the maximum permitted and accordingly, the height breach is not associated with additional density beyond what is expected by the controls.
- It is considered to be a significantly better planning outcome to replace the demountable buildings with new works that optimise the efficient use of space, create a transition between indoor and outdoor spaces and allow accessible paths of travel throughout the school building. Therefore, on balance, the proposal is considered

to achieve a planning purpose of enhancing the amenity of the school and of adjoining properties in the absence of any additional adverse impacts.

Council is also satisfied that in accordance with sub-clause (4) (ii) of Clause 4.6, the proposal will be in the public interest because it is consistent with the following objectives of the R3 Medium Density Residential zone in which the site is located, for the reasons stated below:-

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposal is consistent with these objectives as it will improve the existing educational facilities for this established use whilst remaining compatible with the low density surrounding uses. The proposal will support the operation and facilities on the site enhancing the school use for both the students and staff.

In accordance with sub-clause (4) of Clause 4.6 of the CBLEP 2013, and in view of the above assessment, Council is satisfied that the applicant's written request to vary the building height development standard adequately addresses the matters required to be demonstrated under sub-clause (3) and that the written submission is well-founded.

Sub-clause (4) (b) states that development consent must not be granted unless the concurrence of the Secretary of the Department of Planning and Environment (DPE) has been obtained. Council has been advised that it can assume the concurrence of the Secretary of the DPE. Under Sub-clause (5) the Secretary is required to consider the following when deciding to grant concurrence:-

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

(b) the public benefit of maintaining the development standard, and

(c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

The applicant has demonstrated that the proposed buildings have been designed in accordance with current education best practice and designed for the specialised school use. The buildings will be purpose built and are

consistent with the public's expectation for the development of school facilities for the site.

Council is satisfied that the Clause 4.6 written submission is well founded, and the proposed contravention of the building height development standard in this case will not raise any matter of significance for state or regional environmental planning and that the public benefit of the maximum building height development standard will be maintained.

Clause 5.10 - Heritage Conservation

The site is listed as a local heritage item under the Canada Bay Local Environmental Plan 2013. In accordance with Clause 5.10(4) the consent authority must, before granting consent under this clause in respect of a heritage item, consider the effect of the proposed development on the heritage significance of the item.

The heritage inventory sheet contains the following statement of significance:

The St Mark's Catholic Church and School site is an important group of community buildings set in attractive grounds that has high importance in the local streetscape.

The main church building at the centre of the site is an impressive Inter-War Romanesque style church building with high quality brick detailing.

The Presbytery is a good example of the Inter-War Gothic style and acts as a complement to the church.

The selection of plantings from the early twentieth century, particularly the palm trees are characteristic of the period and complement the church and presbytery buildings.

A church and school has existed on this site since 1888. As a group, the buildings show the development of the church and school in Drummoyne since 1888.

The St Mark's Catholic Church and School group is of special community significance as a collection of buildings dedicated to the teaching and practice of the Catholic faith.

Impact on Heritage Items in the Vicinity

The school is in the vicinity of a number of heritage items but, due to the location of the major works, the most affected properties are those adjoining the site in South Street. The major built work is to the south of the site and the demolition of the lightweight buildings here would likely be seen as a positive by local residents. There is little historical connection between the surrounding properties and the school site.

Impact on the Conservation Area

The school is within the Bourketown Conservation Area that contains a range of buildings from the late Victorian period onwards. The subject site was originally part of the Bourketown subdivision of 1840 by John Brennan. The township was not a success and the area around the Church and School was part of the later Tranmere Estate that was subdivided in 1882 by John Lennon.

The immediate area is quite mixed in scale and detail. The proposed development replaces the one and two storey buildings to the south of the older school building with the development of a comparable scale. The new additions will read as part of the Post War development of the site and the primary element on the site, the Church, will remain a dominant element in the local streetscape.

The proposal was reviewed by Council's Heritage Advisor and the site inspected with their assessment concluding that the demolition and proposed works would not unreasonably impact on the heritage significance of this site. In summary, the works are to occur to relatively modern school buildings, which are of limited architectural quality. The Church is the most significant building on site and the proposed works are set well to the south and are not at a scale that would impact on the immediate setting and there will be no impact on views from Tranmere Street and South Street.

The proposal is consistent with the heritage objectives and controls of the Canada Bay Local Environment Plan, 2013 and Development Control Plan, 2017.

5.2. Draft Environmental Planning Instruments [Section 4.15 (1) (a) (i & ii)]

There are no draft Environmental Planning Instruments applicable to this application.

5.3. Development Control Plans, Council Policies or Codes [Section 4.15(1)(a)(iii)]

The proposed development is affected by the provisions of the Canada Bay Development Control Plan 2017. Following is a summary table indicating the performance of the proposal against relevant statutory standards.

Control	Standard	Proposed	Compliance
C4.1 – Waste management	Onsite waste storage and recycling	The proposal provides an additional waste storage area to complement the existing area.	Yes
C5 – Preservation of trees	Conserve and enhance landscaping	The proposal was reviewed by Council's Tree Services Team and found that the removal of the selected trees and	Yes

		their replacement to be satisfactory subject to conditions.	
C6 – Engineering Requirements	Stormwater management and vehicular access	The proposal was reviewed by Council's engineers and found to be satisfactory subject to conditions.	Yes
Part D – Heritage Conservation	Setting, scale, form and detail, materials and colours, landscaping and demolition	The heritage assessment provided in Section 5.1 above concluded that the proposal will not adversely impact upon the heritage significance of the site.	Yes

The proposed development has achieved full compliance with the non-statutory controls applicable to the site and is considered acceptable in this regard.

5.4. **Likely Impacts of the Development [Section 4.15 (b)]**

The likely impacts of the proposed development upon the surrounding area are discussed as follows:

Solar Access

Part E2.3 of the Canada Bay Development Control Plan, 2017 provides controls for solar access and overshadowing as follows:

C1 New buildings and additions are sited and designed to maximise direct sunlight to north-facing living areas and outdoor recreation areas.

C2 Direct sunlight to north facing windows of living areas and private open space of adjacent dwellings should not be reduced to less than 3 hours between 9.00am and 3.00pm on 21 June.

The works are primarily oriented along the southern boundary shared with the neighbouring dwelling at 27 Tranmere Street, and 10 South Street Drummoyne.

The submitted shadow diagrams depict that shadow cast by the development will fall over portions of the four (4) series of windows of 27 Tranmere Street throughout various stages of the day in mid-winter. The three windows positioned closest to the front of the neighbouring dwelling service the living spaces of the dwelling, whilst the linear and low series of windows, towards the rear of the dwelling, serve the kitchen.

The existing and proposed overshadowing impacts upon the neighbouring dwellings of 10 South Street and 27 Tranmere Street are summarised as follows:

Existing and Proposed Shadows for 10 South Street

The submitted shadow diagrams have demonstrated that the existing demountable buildings overshadow the northern elevation of the neighbouring dwelling at 10 South Street. Following the construction of the new classrooms the amount of solar access afforded to this elevation will not be reduced below that currently received. This is primarily due to the substantially sized demountable classroom, measuring 8.04metres in height, and is currently setback 3metres from the boundary. The height of the new classrooms will be slightly higher than the existing (0.6 to 1.16metres). However, any impact by the slight increase in building height has been offset by the increased side setback of the first floor, which currently measures 3metres, with the new first floor of the building to be setback between 4.998m and 9.2metres.

The amount of shadow cast by the proposed development over the northern facing windows of the adjoining dwelling at 10 South Street will not be compounded by the proposed development.

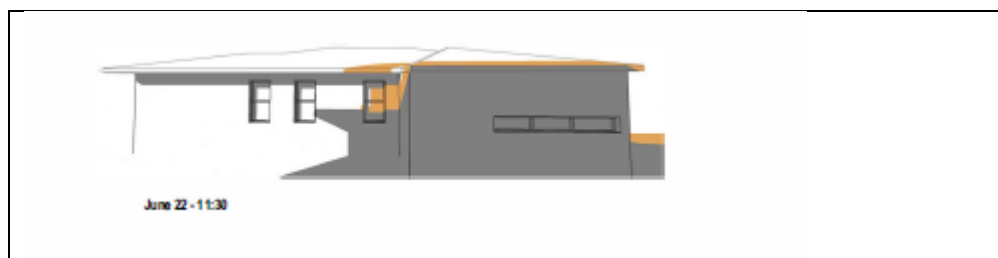
Existing Shadow for 27 Tranmere Street

Between 9.00am and 10.00am the dwelling is cast in shadow by its own built form over its own living room windows on the northern elevation. These living room windows receive a short amount of direct sunlight between 10.00am and midday. The kitchen window receives sunlight to a portion of its window shortly before 10.00am but is in full shadow shortly after 10.30am and does not receive any direct sunlight for the rest of the day.

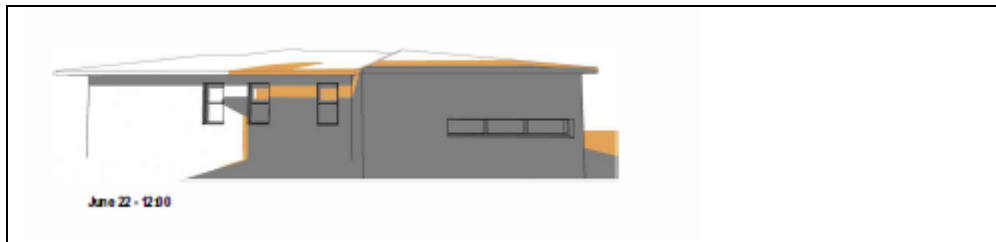
In summary only a short amount of solar access is afforded to the three (3) living windows between 10.00am and midday. With the series of low windows to the kitchen receiving sunlight before 10.00am until shortly after 10.30am.

Proposed Shadow for 27 Tranmere Street

The proposed new classroom will cast a small amount of additional shadow over portions of the two living room windows at 11:30 until after midday (as depicted in the following diagrams). The amount of shadow cast by the proposed works will be nominal in comparison to the shadows cast by the existing classrooms.



Additional shadow cast by proposed development at 11:30 mid-winter on 27 Tranmere Street (source: applicant)



Additional shadow cast by proposed development at midday mid-winter on 27 Tranmere Street (source: applicant)

As detailed above the proposal will result in overshadowing of the north (side) facing windows of the adjoining property at 27 Tranmere Street due to the subdivision pattern which provides general east-west orientations. Due to the slight reduction of solar access an assessment is provided against the following solar access planning principle:

Planning Principle - [Benevolent Society v Waverley Council (2010) NSWLEC 1082]

In The Benevolent Society v Waverley Council [2010] NSWLEC 1082, Senior Commissioner Moore of the Land and Environment Court revisited the Court's planning principle in relation to overshadowing and proffered the following revised planning principle:

- The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed.) At higher densities sunlight is harder to protect and the claim to retain it is not as strong.

Comment: There will be additional overshadowing cast as a result of the proposed new classrooms. Due to the east-west orientation of the site it is difficult to maintain the existing levels of solar access to the south. It is noted that the dwelling to the south retains sunlight to the eastern windows in the morning period.

The subject school site and neighbouring dwelling are both located within the R3 Medium Density Residential zone, which permits schools and both dwelling-houses and residential flat buildings. The new school classrooms have been designed to ensure that shadow impacts are kept to a minimum by providing a significant setback of over 3metres from the side boundary and containing the classrooms that adjoin the dwelling at 27 Tranmere Street within the 8.5metre building height control.

- The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained.

Comment: Given the east-west orientation of the site, additional shadow will be cast towards the neighbouring property to the south. The northern elevation of the dwelling will receive sunlight until shortly before 11.30am. After this time the proposed development will cast a shadow over the neighbouring windows, which are at present in full shadow shortly after midday.

The slight increase in overshadowing is not considered to be a result of poor design and as outlined in the following discussion it is primarily a result of the east-west orientation of the site.

- Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.

Comment: Due to the existing subdivision pattern, the retention of the existing solar access to the north facing windows of 27 Tranmere Street is difficult to achieve.

The neighbouring portion of the school that casts a slight shadow over the adjoining dwelling is contained within the building envelope control, which is generally held to control the overall massing of the development. The development provides a generous side setback of 3.013metres greater than the existing setback of 2.75metres.

- For a window, door or glass wall to be assessed as being in sunlight, regard should be had not only to the proportion of the glazed area in sunlight but also to the size of the glazed area itself. Strict mathematical formulae are not always an appropriate measure of solar amenity. For larger glazed areas, adequate solar amenity in the built space behind may be achieved by the sun falling on comparatively modest portions of the glazed area.

Comment: Noted. This additional impact is considered a consequence of the existing subdivision pattern, and is not a result of poor design.

- For private open space to be assessed as receiving adequate sunlight, regard should be had of the size of the open space and the amount of it receiving sunlight. Self-evidently, the smaller the open space, the greater the proportion of it requiring sunlight for it to have adequate solar amenity. A useable strip adjoining the living area in sunlight usually provides better solar amenity, depending on the size of the space. The amount of sunlight on private open space should ordinarily be measured at ground level but regard should be had to the size

of the space as, in a smaller private open space, sunlight falling on seated residents may be adequate.

Comment: Due to the placement of a large solid timber awning positioned at the rear of the dwelling, the private open space of No. 27 Tranmere Street does not receive three hours of direct solar access. This timber awning measuring over three metres in height and positioned adjacent to the northern boundary casts a considerable shadow over its own rear yard area.

The proposed additions to the school classrooms will not reduce the amount of solar access to the rear private open space of 27 Tranmere Street.

- Overshadowing by fences, roof overhangs and changes in level should be taken into consideration. Overshadowing by vegetation should be ignored, except that vegetation may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence.

Comment: Overshadowing by fences has been taken into consideration and is comparable to the existing situation. No significant vegetation is required to be considered.

- In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as well as the existing development.

Comment: As detailed in the context section of this report, the broader area is characterised by a mix of two-storey dwellings and three (3) to four (4) storey walk-up residential apartment buildings. This is a direct and intended consequence of the medium density residential zone, which permits dwelling houses and residential flat buildings.

Properties that are redeveloped to reach their full development potential may result in further overshadowing impacts as the predominant subdivision pattern is east-west. This is considered a result of the prevailing subdivision pattern and the 8.5metre building height permitted form, and not as a result of poor design.

Privacy

The Environmental Noise Assessment by Day Design Pty Limited dated 23 August 2017 recommends that the proposal will comply with the requirements for protecting residential amenity subject to the installation of acoustically treated glazing and seals to openings in the south east and south west external walls and for all windows and doors in those walls to be closed during school operations.

Privacy screens are to be installed to the first floor windows oriented towards the south east side boundary to prevent direct lines of sight to the neighbouring residential properties.

Suitable conditions have been recommended to be placed on any consent reinforcing the acoustic requirements of the noise assessment report and the treatment to the windows on the south-east elevation.

Traffic Generation and Parking

There is no specific parking requirement under the CBDP for schools and it is noted that there is no on-site parking for staff or pick-up or drop-off space provided on-site. As there will be no increase in student or staff numbers there will not be any additional parking demand generated by the proposed works.

The application was reviewed by Council's Traffic Engineer who raised no objection to the proposal subject to a condition being placed on any consent identifying that there is to be no increase in the school capacity.

Streetscape, bulk and scale

As detailed above, the surrounding developments are predominantly detached residential dwellings to the south and three storey apartment buildings to the east. The school buildings have had a long standing presence within the streetscape which is in contrast to the neighbouring dwellings.

The two-storey school building is a distinctly different building from the single storey dwellings at 23 to 27 Tranmere Street and 8 to 10 South Street (to the rear). The proposed works will be of a contemporary design of a high quality and complementary to the existing built form on the site. The curved façade of the new works will provide a suitable transition between the school and the neighbouring dwellings.

The proposed building materials are appropriate to the existing built environment and activities, drawing from the existing buildings whilst reflecting a more contemporary approach linked to the learning environment. The proposed materials provide an overall neutral palette, which complements the existing heritage buildings on-site and the surrounding residential context.

5.5. Suitability of the Site for the Development Proposed [Section 4.15(c)]

The proposal is for the provision of a purpose-built facility which will better service the changing needs of the existing educational use of the site. As the proposal has been designed in accordance with current education best practice it is considered suitable for the site.

5.6. The Public Interest [Section 4.15 (e)]

The proposed development is consistent with the objectives of the Environmental Planning and Assessment Act in so far as it promotes the co-ordinated and orderly, and economic use and development of the land. As a result Council may be satisfied that the development subject to conditions is consistent with the public interest.

6. INTERNAL REFERRALS

6.1. Landscape Architect

The proposal was referred to Council's Landscape Architect, who raised no objection to the removal of the tree from the south-east corner of the site to allow for the expansion of the curved element of the classrooms.

The tree proposed to be removed for the new pathway (north-east corner) is a *Lophostemon spp.* is in a condition of good health and is worth keeping.

It has been recommended that the new pathway be moved to the middle of two trees, so that the pathway to each tree trunk will still have approx. 2m distance. Both trees can be retained in this way.

A condition has been recommended to be placed on any consent reflecting the retention of this tree.

6.2. Stormwater Drainage Engineer

The proposal was referred to Council's Civil Engineer, who raised no objection to the proposal subject to the conditions listed in the recommendation below.

6.3. Traffic Engineering

The proposal was referred to Council's Traffic Engineer, who questioned clarification that the student and staff numbers will not be increased through this application. It was identified that at present during peak pick-up periods extensive queuing and illegal parking issues occur in Tranmere Street and other surrounding local streets.

In the absence of measures to address these issues, it may be necessary via condition to restrict the school capacity in line with the capacity that it is currently operating at. As such, a suitable condition has been recommended to be placed on any consent identifying that no approval is granted for the enlargement of staff or student numbers at the school.

6.4. Heritage Advisor

The proposal was referred to Council's Heritage Advisor, who raised no objection to the proposal.

6.5. Waste Officer

The proposal was referred to Council's Waste Officer, who raised no objection to the proposal subject to the conditions listed in the recommendation below.

6.6. Environmental Health - Noise

The proposal was referred to Council's Environmental Health team to review the acoustic report. The environmental health team reviewed the report and found the recommendation contained within it suitable and have recommended suitable conditions listed in the recommendation below.

7. EXTERNAL REFERRALS INCLUDING THE RESULT OF ANY REFERRALS TO AN APPROVED AUTHORITY

The application did not require referral to an external authority.

8. CONCLUSION

The proposed development is appropriately located within a Medium Density Residential R3 zone under the provisions of the Canada Bay Local Environmental Plan, 2013 and is consistent with the statutory and non-statutory development standards and controls of relevance to the proposal.

Further, the development performs adequately in terms of its relationship to the surrounding built and natural environment, particularly in relation to likely impacts upon surrounding properties. Consequently, the proposal is supported from an environmental planning perspective.

RECOMMENDATION

Pursuant to Sections 4.16 of the Environmental Planning and Assessment Act 1979 (as amended)

THAT Sydney Eastern City Planning Panel, as the determining authority, grant consent to Development Application No. DA2017/0466 to the demolition of demountable buildings along south eastern side boundary, alterations and substantial two storey addition to existing education facility on land at 35 Tranmere Street, Drummoyne NSW 2047, subject to the following site specific conditions. In granting consent the Panel has regard to the merit considerations carried out in the assessment report and pursuant to s.4.15 of the Environmental Planning and Assessment Act. On consideration of the merits of the case the Panel acknowledges the areas of non-compliance arising from the application but notes that it supports the application based on the particular circumstances of the case and does not consider that the consent gives rise to a precedent.

- A. THAT Sydney Eastern City Planning Panel, assume the concurrence of the Secretary: Department of Planning and Environment and invoke the provisions of clause 4.6 of the *Canada Bay Local Environmental Plan 2013* and resolve that in the circumstance of the case a strict application of the statutory standards contained in Clause 4.3 Height of Buildings in the

Canada Bay Local Environmental Plan 2013 is unnecessary and unreasonable.

- B. THAT Sydney Eastern City Planning Panel, as the determining authority, grant consent to Development Application No. 2017/0466 to the demolition of demountable buildings along south eastern side boundary, alterations and substantial two storey addition to existing education facility on land at 35 Tranmere Street, Drummoyne NSW 2047 subject to the following site specific conditions. In granting consent Council has regard to the merit considerations carried out in the assessment report and pursuant to s.4.15 of the Environmental Planning and Assessment Act. On consideration of the merits of the case the Sydney Eastern City Planning Panel acknowledges the areas of non-compliance arising from the application but notes that it supports the application based on the particular circumstances of the case and does not consider that the consent gives rise to a precedent.

General Conditions

1. **DAGCA01 - Approved Plans and Supporting Documents**

The development shall be carried out substantially in accordance with the approved stamped and signed plans and/or documentation listed below **except where modified by any following condition**. Where the plans relate to alteration or additions only those works shown in colour or highlighted are approved.

<i>Reference/Dwg No</i>	<i>Title/Description</i>	<i>Prepared By</i>	<i>Date/s</i>
DA101	Existing Site Plan	Thomson Adsett	26.04.2017
DA102	Demolished Site Plan	Thomson Adsett	26.04.2017
DA103	Proposed Site Plan	Thomson Adsett	26.04.2017
DA200	Existing Ground Floor Plan	Thomson Adsett	26.04.2017
DA201	Existing First Floor Plan	Thomson Adsett	26.04.2017
DA202	Existing Roof Plan	Thomson Adsett	26.04.2017
DA203	Existing & Demolished Ground Floor Plan	Thomson Adsett	26.04.2017
DA204	Existing & Demolished First Floor Plan	Thomson Adsett	26.04.2017
DA205	Existing & Demolished Roof Plan	Thomson Adsett	26.04.2017
DA210	Proposed Ground Floor Plan	Thomson Adsett	26.04.2017
DA211	Proposed First Floor Plan	Thomson Adsett	26.04.2017
DA212	Proposed Roof Plan	Thomson Adsett	26.04.2017
DA300	Elevations	Thomson Adsett	26.04.2017
DA301	Elevations	Thomson Adsett	26.04.2017
DA302	Sections	Thomson Adsett	26.04.2017
6096-1.1R	Environmental Noise Assessment	Day Design	03.11.2017
160446	BCA Assessment Report	Blackett Maguire + Goldsmith	September 2017

Note 1: Modifications to the approved plans will require the lodgement and consideration by Council of a modification pursuant to Section 4.55 of

the Environmental Planning and Assessment Act.

Note 2: *A warning to all Accredited Certifiers. You should always insist on sighting the original Council stamped approved plans/documentation and not rely solely upon the plan reference numbers in this condition. Should the applicant not be able to provide you with original copies, Council will provide you with access to its files so you that may review our original copies of approved documentation.*

Note 3: *The approved plans and supporting documentation may be subject to conditions imposed under section 4.17 of the Act modifying or amending the development (refer to conditions of consent which must be satisfied prior to the issue of any Construction Certificate).*

(Reason: To confirm and clarify the terms of consent)

2. **DAGCA03 - Construction within Boundary**

All approved construction including but not limited to footings, walls, roof barges and guttering are to be constructed wholly within the boundaries of the premises.

(Reason: To ensure compliance with approved plans)

3. **DAGCB02 - Compliance with Disability Discrimination Act**

This approval does not necessarily protect or guarantee against a possible claim of discrimination (intentional or unintentional) under the *Disability Discrimination Act 1992*, and the applicant/owner is therefore advised to investigate their liability under this Act. **Note: Disability (Access to Premises - Buildings) Standards 2010** - As of 1 May 2011, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful under the *Disability Discrimination Act 1992*.

(Reason: To inform of relevant access requirements for persons with a disability)

4. **DAGCB10 - Site Management**

The following procedures apply:

- (a) Implement the site management plan and measures, and provide for erosion and sediment control according to the SSROC "Do It Right On Site" publication;
- (b) Prevent sediment and/or building materials being carried or washed onto the footway, gutter, road, or into Council's stormwater drainage system;
- (c) Ensure soil/excavated material is not transported on wheels or tracks of vehicles or plant and deposited on surrounding roadways;
- (d) Ensure safe access to and from the site including the road reserve and footpath area, crossings by heavy equipment, plant and materials delivery, or static loads from cranes, concrete pumps and the like;
- (e) Ensure safe loading and unloading of excavation machines, building materials, formwork and the erection of the structures within the site;
- (f) Ensure storage on site of all excavated material, construction materials and waste containers during the construction period (except where otherwise approved); and
- (g) Ensure support of any excavation beside any adjoining property or the road reserve is designed by a Chartered Civil Engineer.

(Reason: Environmental protection)

5. **DAGCB16 - Tree Preservation**

All street trees and trees on private property that are protected under Canada Bay Council's controls, shall be retained except where Council's prior written consent has been obtained.

(Reason: Tree preservation)

6. **DAGCD01 - Approved Stormwater Drainage Design**

The stormwater drainage system for the proposed development shall be constructed in accordance with the following approved plans and documentation, endorsed with Council's Stamp, and Council's "Appendix 2 - Engineering Specifications of the Canada Bay Development Control Plan", except where amended by other conditions of consent:

Project/Drawing No.	Revision No.	Prepared by	Dated
Job No: 166112, Drawing No: DA1.01, DA2.01, DA2.11, DA3.01, DA3.21	1	Northop	16.03.2018

Important Note:

All new downpipes are to be connected to internal stormwater system. Silt and gross pollutant trap shall be installed in the boundary pit designed in accordance with Councils "Engineering Specification". Minimum silt trap of 200mm in depth is required in the pit. Gross pollutant trap such as Lysaghts maxi-mesh or similar shall be installed in the outlet of the pit.

(Reason: To ensure the approved stormwater management and driveway design are constructed)

Conditions which must be satisfied prior to the commencement of demolition of any building or structure

7. **DAPDB01 - Construction Certificate - Prior to the Commencement of any Demolition Works**

Where demolition is associated with the erection of a new structure, or an altered portion of or an extension to an existing building, the demolition of any part of a building is "commencement of building work" pursuant of section 6.6 of the Act. In such circumstance all conditions of this consent must be satisfied prior to any demolition work. This includes, but is not limited to, the **issue of a Construction Certificate, appointment of a PCA and Notice of Commencement under the Act.**

(Reason; Statutory Requirement)

8. **DAPDB02 - Demolition**
Demolition - General

- a. That two (2) working days (i.e. Monday to Friday exclusive of public holidays) prior to the commencement of any demolition work, notice in writing is to be given to the Council. Such written notice is to include:

- The date when demolition will commence,
 - Details of the name, address and business hours contact telephone number of the demolisher, contractor or developer.
 - The licence number of the demolisher, and relevant WorkCover licenses, (see minimum licensing requirements in (d) below, and
 - Copies of the demolisher's current public liability/risk insurance policy indicating a minimum cover of \$10,000,000.00.
- b. Demolition of buildings and structures must comply with all current and relevant Australian Standards.
- c. Demolition works are restricted as follows:
- Monday to Saturday inclusive - 7:00am - 5:00pm
 - Sundays and Public Holidays - No work
- d. At least two (2) working days (i.e. Monday to Friday exclusive of public holidays), the developer or demolition contractor must notify adjoining residents prior to demolition commencing advising the following:
- The date when demolition will commence;
 - Details of the name, address and business hours contact telephone number of the demolisher, contractor or developer;
 - The telephone number of WorkCover's Hotline 13 10 50.

Demolition Involving the Removal of Asbestos

General Information

Homes built or renovated prior to 1987 are likely to contain asbestos. Asbestos is most commonly found within eaves, internal and external wall cladding, ceilings and walls (particularly within wet areas such as bathrooms and laundries), and fences. Unless properly handled, asbestos disturbed or removed during renovations can cause the development of asbestos related diseases, such as asbestosis, lung cancer and mesothelioma.

To ensure work does not cause undue risk please see the following site for further information: www.asbestosawareness.com.au

Asbestos to be removed by licensed asbestos removalist

All works removing asbestos containing materials must be carried out by a suitably licensed asbestos removalist duly licensed with Workcover NSW, holding either a Friable (Class A) or a Non- Friable (Class B) Asbestos Removal License which ever applies AND a current WorkCover Demolition License where works involve demolition.

NOTE:

- Removal of asbestos by a person who does not hold a Class A or Class B asbestos removal license is permitted if the asbestos being removed is 10m² or less of non-friable asbestos (approximately the size of a small bathroom). Friable asbestos materials must only be removed by a person who holds a current Class A asbestos license.
- To find a licensed asbestos removalist please see www.workcover.nsw.gov.au

Compliance with applicable Legislation, Policies and Codes of Practice

Asbestos removal works are to be undertaken in accordance with the following:

- NSW Work Health and Safety Act and Regulation 2011;
- Safe Work Australia Code of Practice for the Management and Control of Asbestos in the Workplace [NOHSC:2018(2005)]
- NSW Government WorkCover Code of Practice - How to Safely Remove Asbestos;
- NSW Government WorkCover Code of Practice - How to Manage and Control Asbestos in the Workplace; and

Clearance certificate

Following completion of asbestos removal works undertaken by a licensed asbestos removalist re-occupation of a workplace must not occur until an independent and suitably licensed asbestos removalist undertakes a clearance inspection and issues a clearance certificate.

Notification of asbestos removal works

At least two (2) working days (i.e. Monday to Friday exclusive of public holidays), the developer or demolition contractor must notify adjoining residents prior to the commencement of asbestos removal works. Notification is to include, at a minimum:

- The date and time when asbestos removal works will commence;
- The name, address and business hours contact telephone number of the demolisher, contractor and/or developer;
- The full name and license number of the asbestos removalist/s; and
- The telephone number of WorkCover's Hotline 13 10 50

Warning signs must be placed so they inform all people nearby that asbestos removal work is taking place in the area. Signs should be placed at all of the main entry points to the asbestos removal work area where asbestos is present. These signs should be weatherproof, constructed of light-weight material and adequately secured so they remain in prominent locations. The signs should be in accordance with AS 1319-1994 Safety signs for the occupational environment for size, illumination, location and maintenance.

Barricades

Appropriate barricades must be installed as appropriate to prevent public access and prevent the escape of asbestos fibres. Barricades must be installed prior to the commencement of asbestos removal works and remain in place until works are completed.

(Reason: To ensure compliance with the relevant legislation and to ensure public and work safety)

9. **DAPDB03 - Site Safety Fencing - Demolition only**

Erect site fencing to a minimum height of 1.8m complying with WorkCover Guidelines, to exclude public access to the site throughout the demolition. The fencing **must be erected before the commencement of any demolition work** and maintained.

The site shall be maintained in a clean and orderly condition during demolition works.

Hoardings

If applicable, a separate Hoarding Application for the erection of an A class (fence type) or B class (overhead type) hoarding along the street frontage(s) complying with WorkCover requirements must be obtained including:

- payment to Council of a footpath occupancy fee based on the area of footpath to be occupied and Council's Schedule of Fees and Charges before the commencement of work; and
- provision of a Public Risk Insurance Policy with a minimum cover of \$10 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained with a copy provided to Council.

(Reasons: Statutory Requirement and health and safety)

10. **DAPDB05 - Erosion and Sediment Control During Demolition**

Erosion and sedimentation controls shall be in place **prior to the commencement of demolition works** and shall be maintained throughout the demolition of the building and any regrading of the ground levels, approved removal of vegetation etc. The controls shall be installed in accordance with the details approved by Council and/or as directed by Council officers. These requirements shall be in accordance with Managing Urban Stormwater - soils and Construction produced by Landcom (Blue Book). A copy of the Erosion and Sediment Control Plan must be kept on site during the demolition works and made available to Council officers on request.

(Reason: Environmental protection)

Conditions which must be satisfied prior to the issue of a Construction Certificate

11. **DACCA01 - Access for People with Disabilities**

Access for people with disabilities must be provided in accordance with the requirements of the Building Code of Australia, relevant Australian Standards and with regard to the *Disability Discrimination Act 1992*. **Prior to the issue of a Construction Certificate**, the plans shall demonstrate compliance. **Note: Disability (Access to Premises - Buildings) Standards 2010** - As of 1 May 2011, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful under the Disability Discrimination Act 1992.

(Reason: To inform of relevant access requirements for persons with a disability)

12. **DACCB02 - Damage Deposit for Council Infrastructure**

A Damage Deposit (calculated in accordance with Council's adopted Fees and Charges) of **\$5,000** shall be paid to Council **prior to the issue of the Construction Certificate**.

This Damage Deposit shall be refunded upon completion of all works, at the Occupation or Final Certificate stage.

Any costs associated with works necessary to be carried out to rectify any damages caused by the development, shall be deducted from the Damage Deposit.

Note: Full panel concrete footpath replacement in areas where connection to all services are required. This includes driveways and road concrete panels. This will stop differential settlement and maintain the integrity of council infrastructure and asset.

(Reason: Protection of Council infrastructure)

13. DACCB03 - Long Service Levy Payments

The payment of a long service levy as required under part 5 of the *Building and Construction Industry Long Service Payments Act 1986*, in respect to this building work, and in this regard, proof that the levy has been paid, is to be submitted to Council **prior to the issue of a Construction Certificate**. Council acts as an agent for the Long Services Payment Corporation and the levy may be paid at Council's Office.

(Reason: Statutory requirement)

14. DACCB07 - Section 7.12 Levy Contributions

The following Section 7.12 Levy Contribution is required towards the provision of public amenities and services in accordance with the City of Canada Bay Section 7.12 Plan 2005.

Pursuant to Section 4.17 of the *Environmental Planning and Assessment Act 1979*, and the City of Canada Bay Section 7.12 Levy Contributions Plan 2005, a contribution of 0.5% (for works between \$100,001.00 and \$200,000.00) or 1% (for works over \$200,000.00) of the cost of development amounting to **\$72,558.98** shall be paid to Council **prior to the release of any associated Construction Certificate**.

The amount to be paid will be adjusted at the time of actual payment, in accordance with the provisions of the Canada Bay Section 7.12 Levy Contributions Plan 2005. The Consumer Price Index All Group Index Number for Sydney at the time of the development application determination is **114.0**.

Please Note: Any change in the Consumer Price Index (CPI) between the date of this approval and the date that the Section 7.12 Contribution is paid will be added/subtracted from the amount cited above. The amount will be adjusted at the time of actual payment in accordance with Canada Bay Section 7.12 Levy Contributions Plan 2005.

Contributions must be receipted by Council and submitted to the Accredited Certifier **prior to the issue of any Construction Certificate**.

A copy of the Canada Bay Section 7.12 Levy Contributions Plan 2005 and accompanying Fact Sheet may be inspected or obtained from the City of Canada Bay Civic Centre, 1A Marlborough Street, Drummoyne during business hours or on Council's web site at www.canadabay.nsw.gov.au.

(Reason: To provide high quality and diverse public amenities and services to meet the expectations of the existing and new residents of the City of Canada Bay)

15. DACCE01 - Amendments to Approved Plans

The following amendments shall be made to the approved plans prior to the issue of a Construction Certificate:-

- The Lophostemon spp. to the northern corner of the site, identified for removal for the new pathway is a good specimen and in good health and is to be preserved.

The proposed new pathway is to be relocated to the middle of the two trees, so that the distance to the pathway from each tree trunk will be approximately 2metres. Both trees are to be retained.

Note: This involves a change to the Development Application plans as submitted to and approved by Council. Any changes in this regard shall be reflected as amended plans to be submitted to the Accredited Certifier **prior to the issue of a Construction Certificate** for the proposed development.

(Reason: To confirm and clarify the terms of Council's approval)

16. **DACCE02 - Construction Management Plan**

Prior to the issue of a Construction Certificate, submit to the Accredited Certifier a Construction Management Plan that clearly sets out the following:

- (a) What actions and works that are proposed to ensure safe access to and from the site, and what protection will be provided to the road and footpath area from building activities, crossings by heavy equipment, plant and materials delivery, or static loads from cranes, concrete pumps and the like.
- (b) The proposed method of loading and unloading excavation machines, building materials, formwork, and the erection of any part of the structure within the site.
- (c) The proposed areas within the site to be used for a builder's site office and amenities, the storage of excavated material, construction materials and waste containers during the construction period.
- (d) How it is proposed to ensure that soil/excavated material is not transported on wheels or tracks of vehicles or plant and deposited on surrounding roadways.
- (e) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve - the proposed method of support is to be designed by a Chartered Civil Engineer.
- (f) A Soil and Water Management Plan detailing all sedimentation controls.

(Reason: Safety, amenity and protection of public infrastructure and the environment)

17. **DACCE04 - Obtaining a Construction Certificate for Building Work**

This Development Consent does not constitute approval to carry out construction work. Construction work may only commence **upon the issue of a Construction Certificate, appointment of a Principal Certifying Authority (PCA), and lodgement of Notice of Commencement**.

Please note that if demolition works forms part of the extent of works approved in the same application, then demolition must not commence **prior to the issue of a Construction Certificate**.

(Reason: Information)

18. **DACCI01 - Damage Report**

Prior to the issue of the Construction Certificate, a Damage Report Form shall be completed and submitted to Council. This Damage Report Form is for the evaluation of the existing condition of the road reserve, and shall be filled out and signed by the Applicant and submitted to Council. This form is generally for “minor works” (as defined in the Driveways and Ancillary Works Application Form). For “major works”, a Dilapidation Report will be required.

This Form is used to assist Council in determining the refund of any damage deposits and any likely repairs necessary upon the completion of the development.

When lodging the Damage Report Form, fees are payable in accordance with Council’s fees and charges schedule, which will go towards administration and inspection costs.

The cost of repairing any damage to Council property (including the footpath, verge, street trees, kerb, gutter, road pavement or the like) during and/or immediately after construction must be paid to Council or shall be deducted from the damage deposit bond. Repair of damaged Council property by the Applicant or his agent is not permitted unless approved by Council.

For roadways requiring asphaltic concrete works or adjustment works, these shall be done to a minimum width as specified by Council. Minimum dimensions are given in Council’s Specification for Driveway Construction or Specification for Restoration Works.

(Reason: Maintain public assets)

19. **DACCI03 - Protection of Public Places**

The adjoining or adjacent public area is not to be obstructed by any materials, vehicles, refuse skips and the like, under any circumstances unless approved in writing by Council.

If the work involved in the demolition or construction of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves the closure of a public place, a barrier, fence or hoarding shall be erected **prior to the commencement of any work** subject to approval of a Traffic Management Plan.

An application to occupy public space is to be submitted to Council for approval prior to commencement of works.

Where a hoarding is required, an application for hoarding is also to be submitted to and approved by Council prior to commencement of any work. Hoardings shall be erected to comply with the requirements of WorkCover, the Principal Certifying Authority and with relevant Australian Standards.

(Reason: Safety)

20. **DACCK01 - Application for a Construction Certificate**

The applicant must apply to Council or an Accredited Certifier for a Construction Certificate to carry out the relevant building works that are approved by this consent. The details to be included in the application for a Construction Certificate are:

- (a) Architectural plans and specifications complying with the Building Code of Australia (BCA), relevant Australian Standards, and the development consent and conditions.
- (b) If Council issues the Construction Certificate, engineering details must be submitted for approval for all structural elements, including but not limited to, piers, footings, reinforced concrete slab, first floor joist layout, roof trusses, steel beams and the like. The details must be prepared by a practising consulting structural engineer. Also a certificate from the engineer must be included certifying that the design fully complies with appropriate SAA Codes and Standards and the Building Code of Australia requirements.

Note: The engineer/s undertaking certification must be listed on the National Professional Engineers Register under the appropriate category.

- (c) Geotechnical report for the site, prepared by a qualified geotechnical engineer detailing the foundation conditions of the site and solutions for consideration by a structural Engineer.
- (d) Essential services plan outlining the existing and proposed fire safety measures.
- (e) Disabled access provisions to common and public areas in accordance with AS1428.
- (f) If an alternative solution to the “deemed to satisfy” provisions of BCA is proposed, the following details must be lodged:
 - Performance requirements that the alternative solution intends to meet.
 - Assessment methods used to determine compliance with the performance requirements, including if and how each performance objective impacts on other requirements of the BCA; and
 - A statement about the person who prepared the alternate solution, indicating qualifications, experience, insurance details, and membership of an approved accreditation body

Note: The performance-based application may be required to be reviewed by a suitably qualified independent body at the applicant's expense. Any fees relating to any review are required to be paid **prior to the issue of the Construction Certificate.**

(Reason: Statutory requirement)

21. DACCL01 - Detailed Stormwater Drainage System Design

Prior to the issue of the Construction Certificate a detailed stormwater drainage plan for the safe disposal of stormwater from the site, prepared in accordance with Council's “Appendix 2 – Engineering Specifications of the Canada Bay Development Control Plan” shall be submitted and approved by the Accredited Certifier.

Should any changes be required to the approved stormwater drainage plan, the amended design shall achieve equivalent performance standards in accordance with Council's “Appendix 2 – Engineering Specifications of the Canada Bay Development Control Plan”.

Important Note: Construction Certificate Approval does not include approval for works external to the property. Where the proposed design extends beyond the property boundary, separate approval under Section 138 of the Roads Act 1993, must be obtained from Council prior to the commencement of works.

The applicant is advised to contact Council for clarification of proposed works for which approval under Section 138 applies.

(Reason: Stormwater management)

22. **DACCL02 - Certification of the Stormwater Drainage System Design**

The proposed stormwater design shall be certified by a suitably qualified person, in accordance with Council's "Appendix 2 – Engineering Specifications of the Canada Bay Development Control Plan", and shall be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Certification of the proposed stormwater design shall be obtained from a Chartered Professional Civil Engineer with Institution of Engineers, Australia Corporate Membership and registered on the National Engineers Register (NER) and shall be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. .

(Reason: Adequate stormwater management)

23. **DACCL07 - Silt Arrestors and Gross Pollutant Traps**

Silt and gross pollutant traps shall be fitted in all stormwater pits, designed in accordance with Council's "Appendix 2 – Engineering Specifications of the Canada Bay Development Control Plan" and to the satisfaction of Council or an Accredited Certifier. Details are to be submitted with the design prior to the issue of the Construction Certificate.

(Reason: Environmental Protection)

24. **DACCM01 - Dilapidation Report**

A Dilapidation Report is to be undertaken on all properties, which in the opinion of a suitably qualified engineer, could be potentially affected by the construction of the project. The Dilapidation Report shall be carried out prior to the issue of the Construction Certificate.

The Dilapidation Report is to be prepared by a suitably Qualified Chartered Professional Civil or Structural Engineer with current Institution of Engineers, Australia Corporate Membership and registered on the National Engineers Register (NER) or Geotechnical Practitioner. Standard

The Report shall cover structural and geotechnical factors likely to arise from the development.

A copy of this Report shall be submitted to the owners of all properties inspected and Council as a record.

The person having the benefit of the development consent must, at their own cost, rectify any damage caused to other properties during the construction of the project.

(Reason: Safety)

25. DACCL04 - Erosion and sedimentation controls

Erosion and sedimentation controls must be provided to ensure:

- (a) Compliance with the approved Soil and Water Management Plan
- (b) Removal or disturbance of vegetation and top soil is confined to within 3m of the approved building area (no trees to be removed without approval)
- (c) All uncontaminated run-off is diverted around cleared or disturbed areas
- (d) Silt fences or other devices are installed to prevent sediment and other debris escaping from the cleared or disturbed areas into drainage systems or waterways
- (e) All erosion and sediment controls are fully maintained for the duration of demolition/ development works
- (f) Controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadways
- (g) All disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar
- (h) All water pumped or otherwise removed from excavations or basement areas is filtered to achieve suspended solids/non filterable residue levels complying with the *Australian Water Quality guidelines for Fresh and Marine Waters*
- (i) Pumped or overland flows of water are discharged so as not to cause, permit or allow erosion before the commencement of work (and until issue of the occupation certificate).

Details of the proposed soil erosion and sedimentation controls to be implemented on site must be submitted **with the Construction Certificate Application**. Under no circumstances may any works commence prior to these details being approved by the Accredited Certifier and the controls being in place on the site

(Reason: Environmental protection)

Conditions which must be satisfied prior to the commencement of any development work

26. DAPCB01 - Appointment of Principal Certifying Authority

No work shall commence in connection with this Development Consent until:

- (a) A construction certificate for the building work has been issued by:
 - (i) the consent authority; or
 - (ii) an accredited certifier; and
- (b) the person having the benefit of the development consent has:
 - (i) appointed a principal certifying authority for the building work, and
 - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and

- (b1) the principal certifying authority has, no later than 2 days before the building work commences:
 - (i) notified the Council of his or her appointment, and
 - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- (b2) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
 - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
 - (ii) notified the principal certifying authority of such appointment, and
 - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- (c) the person having the benefit of the development consent has given at least 2 days notice to the Council of the person's intention to commence the erection of the building.

Note: If the principal certifying authority is the Council, the nomination will be subject to the payment of a fee for the service to cover the cost of undertaking all necessary inspections and the issue of the appropriate certificates.

Under the Environment Planning and Assessment (Quality of Construction) Act, 2003, a sign must be erected in a prominent position on the work site showing the name, address and telephone number of the principal certifying authority; the name of the principal contractor (if any) for the building work and a telephone number at which that person may be contacted outside working hours. That sign must also state that unauthorised entry is prohibited. The sign must not be removed until all work has been completed.

(Reason: Statutory requirements)

27. DAPCB02 - Construction Certificate

No work shall commence until you:

- (a) Obtain a Construction Certificate from either the City of Canada Bay Council or an Accredited Certifier - a fee applies for this service; and
- (b) Lodge with the City of Canada Bay Council any Construction Certificate obtained from an Accredited Certifier (together with associated plans and documents) - a fee applies for this service

(Reason: Statutory Requirement)

28. DAPCB05 - Notice of commencement

No work shall commence until you submit a notice of commencement (form will be attached with issue of a Construction Certificate or available from our website) giving Council:

- (a) Not less than two (2) days' notice of the date on which it is proposed to commence work associated with this Development Consent;

- (b) Details of the appointment of a Principal Certifying Authority (either Canada Bay Council or another Accredited Certifier)
- (c) Details of the name, address and licence details of the Builder.

(Reason: Statutory Requirement)

29. DAPCB06 - Site Safety Fencing

Erect site fencing to a minimum height of 1.8m complying with WorkCover Guidelines, to exclude public access to the site throughout the construction works. The fencing **must be erected before the commencement of any work and maintained.**

The site shall be secured in accordance with Clause 146 of the Environmental Planning and Assessment Regulation 2000. The site shall be maintained in a clean and orderly condition during demolition and construction works.

Hoardings

If applicable, a separate Hoarding Application for the erection of an A class (fence type) or B class (overhead type) hoarding along the street frontage(s) complying with WorkCover requirements must be obtained including:

- payment to Council of a footpath occupancy fee based on the area of footpath to be occupied and Council's Schedule of Fees and Charges before the commencement of work; and
- provision of a Public Risk Insurance Policy with a minimum cover of \$10 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained with a copy provided to Council.

(Reasons: Statutory Requirement and health and safety)

30. DAPCB07 - Principal Certifying Authority (PCA) Sign

Prior to commencement of any work, signage must be erected in a prominent position on the work site identifying:

- The Principal Certifying Authority (PCA) by showing the name, address and telephone number of the PCA;
- The Principal Contractor by showing the Principal Contractor's name, address and telephone number (outside of work hours) for that person.
- The sign must state that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the work is being carried out, but must be removed when the work has been completed.

This clause does not apply to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

(Reason: Statutory Requirement)

31. DAPCB08 - Sydney Water Tap in Approvals

The approved plans must be submitted through the Sydney Water 'Tap in' portal to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Sydney Water 'Tap in' customers will receive an approval receipt. For further details please refer to Sydney Water's web site at

www.sydneywater.com.au/tapin or call 1300 082 746.

The Accredited Certifier must ensure that the plans have been approved through the Sydney Water 'Tap in' process and an approval receipt issued **prior to the commencement of works**.

(Reason: Statutory Requirement)

32. **DAPCC01 - Erosion & Sediment Control: Minor works - Prior to construction**

Erosion and sedimentation controls shall be in place **prior to the commencement of site works**; and maintained throughout construction activities until the site is landscaped and/or suitably revegetated. The controls shall be in accordance with the details approved by Council and/or as directed by Council Officers. These requirements shall be in accordance with Managing Urban Stormwater - Soils and Construction produced by Landcom (Blue Book).

A copy of the Erosion and Sediment Control Plan must be kept on site at all times during construction and made available to Council officers on request.

Erosion and sediment control measures as detailed in the submitted Erosion and Sediment Control Plan must be installed and operating **prior to and during all construction works**.

(Reason: Environmental protection)

33. **DAPCC02 - Soil & Water Management during Construction**

Landcom's "Managing Urban Stormwater - Soil and Conservation" August 1998 outlines the general requirements for the preparation of a soil and water management plan. All works shall be conducted in accordance with a soil and water management plan that has been submitted and approved by the Accredited Certifier **prior to the commencement of works**. A copy of the plan shall be kept on-site and made available to Council's Officers on request. All erosion and sediment control measures must be maintained in a functional condition throughout the duration of the works.

(Reason: Environmental protection)

Conditions which must be satisfied during any development work

34. **DADWA02 - Construction Hours**

No construction or any other work related activities shall be carried out on the site outside the hours of 7.00 am to 5.00 pm Mondays to Saturdays. No work to occur on Sundays and public holidays.

Where the development involves the use of jackhammers/ rock breakers and the like or other heavy machinery, such equipment may only be used between the hours of 7.00 am - 5.00 pm Monday to Friday only.

(Reason: Safety and amenity)

35. **DADWA03 - Disruption of Traffic**

During any construction works on the public road that is associated with this approval, the Applicant must provide appropriate signage and traffic control facilities as per the requirements of AS 1742.3 and the RTA “Traffic Control at Works Sites” manual.

(Reason: Safety and information)

36. DADWA04 - Dust Control

Small Works

Where a dust nuisance is likely to occur, suitable screens and/or barricades shall be erected during the demolition, excavation and building works. If necessary, water sprays shall be used on the site to reduce the emission of dust. Screening shall consist of minimum 2 metres height of shade cloth or similar material secured to a chain wire fence of the like and shall be modified as directed by the City of Canada Bay Council should it fail to adequately control any dust nuisance.

Major Works

The following measures must be implemented (in part or in total) as directed by the City of Canada Bay Council to control the emission of dust:

- (a) Dust screens must be erected around the perimeter of the site and be kept in good repair for the duration of the work.
- (b) All dusty surfaces must be wet down and any dust created must be suppressed by means of a fine water spray. Water used for dust suppression must not be contaminated or allowed to enter the stormwater system.
- (c) All stockpiles of materials that are likely to generate dust must be kept damp or covered.
- (d) All stockpiles of soil or other materials shall be placed away from drainage lines, gutters or stormwater pits or inlets.
- (e) All stockpiles of soil or other materials likely to generate dust or odours shall be covered.
- (f) All stockpiles of contaminated soil shall be stored in a secure area and be covered if remaining more than 24 hours or as directed by the City of Canada Bay Council.

(Reason: Environmental amenity)

37. DADWA06 - Prevention of Nuisance

All possible and practical steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from windblown dust, debris, noise and the like during the demolition, excavation and building works.

(Reason: Health and amenity)

38. DADWB03 - Construction Management Plan

All development activities and traffic movements must be carried out in accordance with the approved Construction Management Plan.

All controls in the Plan must be maintained at all times. A copy of the Plan must be kept on site at all times and made available to the Accredited Certifier and Council on request.

(Reason: Compliance with condition of consent)

39. **DADWB04 - Damage to Adjoining Properties**

All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights must be observed at all times. Where damage occurs to adjoining property all necessary repair or suitable agreement for necessary repairs are to be undertaken by the applicant in consultation with, and with the consent of, the affected property owner.

(Reason: Structural safety)

40. **DADWB05 - Stamped Plans**

Stamped plans, specifications, documentation and the consent shall be available on site at all times during construction.

(Reason: To ensure compliance with approved plans)

41. **DADWB06 - Site requirements during demolition and construction**

All of the following are to be satisfied/complied with during demolition, construction and any other site works:

- (a) All demolition is to be carried out in accordance with Australian Standards AS 2601-2001.
- (b) Demolition must be carried out by a registered demolition contractor.
- (c) A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out with close boarded, hardwood timber footpath protection pads. The pad shall cover the entire width of the footpath opening for the full width of the fence.
- (d) No blasting is to be carried out at any time during construction of the building.
- (e) Care must be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.
- (f) Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.
- (g) Any demolition and excess construction materials are to be recycled wherever practicable.
- (h) The disposal of construction and demolition waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997.
- (i) All waste on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997. All excavated material should be removed from the site in the approved manner and be disposed of lawfully to a tip or other authorised disposal area.
- (j) Section 143 of the Protection of the Environment Operations Act 1997 requires waste to be transported to a place which can lawfully accept it. All non-recyclable demolition materials are to be disposed of at an approved waste disposal depot in accordance with legislation.
- (k) All materials on site or being delivered to the site are to generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 must be complied with when placing/stockpiling loose material, disposing of concrete waste, or other

- activities likely to pollute drains or water courses.
- (l) Details as to the method and location of disposal of demolition materials (weight dockets, receipts etc.) should be kept on site as evidence of approved methods of disposal and recycling.
- (m) Any materials stored on site must be stored out of view or in such a manner so as not to cause unsightliness when viewed from nearby lands or roadways.
- (n) Public footways and roadways adjacent to the site must be fully maintained and cleared of obstructions during construction unless prior separate approval from Council is obtained including payment of relevant fees.
- (o) Building operations such as brick cutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- (p) All site waters during excavation and construction must be contained on site in an approved manner to avoid pollutants entering into waterways or Council's stormwater drainage system.

(Reason: To ensure that demolition, building and any other site works are undertaken in accordance with relevant legislation and policy and in a manner which will be non-disruptive to the local area.)

42. DADWC03 - Construction Environmental Management Plan for Remediation

A Construction Environmental Management Plan (CEMP) must be prepared for the proposed remedial works in accordance with the requirements of the approved Remedial Action Plan. The CEMP must be prepared by an appropriately qualified and experienced environmental consultant.

The CEMP for Remediation must include, but not be limited to, the following:

- i. Asbestos Management Plan.
- ii. Project Contact Information.
- iii. Site Security Details.
- iv. Timing and Sequencing Information.
- v. Site Soil and Water Management Plan
- vi. Noise and Vibration Control Plan.
- vii. Dust Control Plan.
- viii. Air Monitoring.
- ix. Odour Control Plan.
- x. Health and Safety Plan.
- xi. Waste Management Plan.
- xii. Incident Management Contingency.
- xiii. Unexpected Finds Protocol.

The CEMP must be prepared and implemented to the satisfaction of the supervising environmental consultant. The environmental site management measures must remain in place and be maintained throughout the period of the remediation works, until completion of site remediation and the site has been validated.

Note: An appropriately qualified and experienced environmental consultant may

be certified under the 'Certified Environmental Practitioner' (CEnvP) Scheme or equivalent.

(Reason: To ensure compliance with Statutory Requirements)

43. **DADWE06 - Tree Preservation - Driveway or Paving Works Within Critical Root Zone**

Driveway and or paving works within the Critical Root Zone: *Lophostemon* spp. at the northern corner affected by the must be constructed to ensure that the existing moisture infiltration and gaseous exchange to the tree root system are maintained. In this regard, details demonstrating that this can be achieved for the following tree/s must be provided by an appropriately qualified person to the satisfaction of the Accredited Certifier:

Excavation in the TPZ zones of these trees shall be monitored and records kept of procedures by the supervising AQV level 5 Arborist.

(Reason: Tree preservation)

44. **DADWF01 - Noise - Construction**

All works carried out on site during construction/ demolition/ excavation/ earthworks shall comply with the NSW Protection of the Environment Operations Act 1997, the Department of Environment and Climate Changes' Interim construction noise guideline' and AS 2436-2010 - 'Guide to noise and vibration control on construction, demolition and maintenance sites' for the control of construction noise which specifies that:

- Construction period of 4 weeks and under - The L90 level measured over a period of not less than 15 minutes when the construction site is operating must not exceed the background level by more than 20 dB(A) at the boundary.
- Construction period greater than 4 weeks but not exceeding 26 weeks - The L90 level measured over a period of not less than 15 minutes when the construction site is operating must not exceed the background level by more than 10 dB(A) at the boundary.
- Construction period exceeding 26 weeks - The L90 level measured over a period of not less than 15 minutes when the construction site is operating must not exceed the background level by more than 5 dB(A) at the boundary.

Should complaints of a noise nuisance be substantiated, Council may require the acoustic treatment of the premises to ensure compliance with the NSW Department of Environment and Climate Changes 'Interim construction noise guideline' and AS 2436-2010 - 'Guide to noise and vibration control on construction, demolition and maintenance sites' for the control of construction noise. A further acoustic assessment & report will be required to be provided to Council assessing the premises in working order.

(Reason: Noise Attenuation)

45. **DADWF02 - Noise - Plant**

All works carried out on site during construction/demolition/excavation or earthworks shall comply with the NSW Protection of the Environment Operations Act 1997. Approved and effective silencing measures shall be provided and maintained on all power-operated plant used on site if required.

(Reason: Safety and Amenity)

46. **DADWG01 - Obstruction of Road or Footpath**

The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste bins or any other matter is not permitted unless approved in accordance with Council's Waste Skip Bin Policy. A Penalty Infringement Notice may be issued for any offence.

(Reason: Protection of infrastructure, safety & information)

47. **DADWG02 - Protection of Public Places**

If the work involved in the demolition or construction of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves the closure of a public place, a hoarding or fence shall be erected. Hoardings shall be erected to comply with the requirements of WorkCover and the Principal Certifying Authority.

(Reason: Safety)

48. **DADWH01 - Compliance with Building Code of Australia**

All building work must be carried out in accordance with the provisions of the Building Code of Australia. **Note:** Applicants who have lodged an objection and who have been granted exemption under clause 187(6) & 188(4) of the *Environmental Planning and Assessment Regulation 2000*, must comply with the Building Code of Australia in all other respects.

(Reason: Prescribed statutory control)

49. **DADWH02 - Critical Stage Inspections - General**

Critical stage inspections must be called for by the Principal Contractor or Owner Builder as required by the Principal Certifying Authority (PCA), any PCA Service Agreement, the Act and the Regulation.

Work must not proceed beyond each critical stage until the PCA is satisfied that work is proceeding in accordance with this consent, the Construction Certificate(s) and the Act. 'Critical Stage Inspections' means the inspections prescribed by the Regulations for the purposes of section 6.5 of the Act or as required by the PCA and any PCA Service Agreement.

Note 1: The PCA may require additional inspections beyond mandatory critical stage inspections in order that the PCA be satisfied that work is proceeding in accordance with this consent.

Note 2: The PCA may, in addition to inspections, require the submission of Compliance Certificates, survey reports or evidence of suitability in accordance with Part A2.2 of the BCA in relation to any matter relevant to the development.

(Reason: Statutory requirement)

50. **DADWH06 - Inspection Records & Compliance Certificates**

The PCA or accredited certifier undertaking each of the inspections must make a **record of each inspection** in accordance with Clause 162B of the Environmental

Planning and Assessment Regulations 2000 and, if the person is not the PCA, forward a copy to the PCA.

A copy of any **compliance certificates** issued in respect of the building work and any documents referred to in the certificate must be provided to Council within two (2) days of the certificate being issued.

A compliance certificate must be issued where:

- (a) Either:
 - (i) Council is appointed the PCA; or
 - (ii) Council is the PCA but agrees to an accredited certifier undertaking certain inspection/s, and
- (b) The PCA or accredited certifier is of the opinion that the stage of work he or she has inspected is satisfactory.

(Reason: Statutory Requirement)

51. DADWI02 - Survey Report - Minor Development

In order to ensure compliance with approved plans, a Survey Certificate to Australian Height Datum shall be prepared by a Registered Surveyor as follows:-

- (a) At the completion of the first structural floor level indicating the level of that floor and the relationship of the building to the boundaries.
- (b) At the completed height of the building, prior to the placement of concrete in form work, or the laying of roofing materials.
- (c) At completion, the relationship of the building and any penetrations thereto, to the boundaries.

Progress certificates in response to points (a) through to (c) shall be provided to the Council or the Principal Certifying Authority at the time of carrying out relevant progress inspections. Under no circumstances will work be allowed to proceed should such survey information be unavailable or reveal discrepancies between the approved plans and the proposed works.

(Reason: To ensure compliance with approved plans)

Conditions which must be satisfied prior to the issue of any Occupation Certificate relating to the use of the building or part

52. DAOCB01 - Certification of Engineering Works

Prior to occupation, the following documents must be submitted to the Principal Certifying Authority.

- a) A Certificate from a Chartered Professional Engineer with Institution of Engineers, Australia Corporate Membership and registered on the National Engineers Register (NER) under the appropriate professional category, and
- b) "Work - As - Executed" drawings of the engineering works prepared by a Registered Surveyor or equivalent.

The abovementioned Certificate is to certify that:

- (i) the stormwater drainage system, and/or
- (ii) the car parking arrangement and area including circulating ramps, and/or
- (iii) any related footpath works, and/or
- (iv) the basement mechanical pump and well system, and/or
- (v) the proposed driveway and layback, and/or

- (vi) other civil works have been constructed in accordance with the Council approved plans and details and satisfies the design intent and complies with the appropriate SAA Codes relevant Standards and Council's Policies and Specifications.

Where Council is not the Principal Certifying Authority, two (2) copies of the above documents are to be provided to Council **prior to the issue of any Occupation Certificate**. These documents are to be retained on Council's Construction Certificate file.

(Reason: Asset management)

53. **DAOCD01 - Occupation Certificate (section 6.9 of the Act)**

A person must not commence occupation or use (*or change of use where an existing building*) of the whole or any part of a new building (within the meaning of section 6.10 of the *Act*) unless an Interim Occupation Certificate or Final Occupation Certificate has been issued in relation to the building or part.

The Principal Certifying Authority is required to be satisfied, amongst other things, that:

- All required inspections (including each applicable mandatory critical stage inspection) have been carried out; and
- Any preconditions to the issue of the certificate required by a development consent have been met.

Note: New building includes an altered portion of, or an extension to, an existing building.

(Reason: Statutory requirement)

54. **DAOCD02 - Evidence of Lawful Asbestos Disposal**

An Occupation Certificate for a development involving the removal of asbestos must not be issued until such time the applicant provides the principal certifying authority with a copy of receipt/s confirming lawful disposal of asbestos waste.

NOTE: Asbestos waste must be disposed at a waste management facility licensed by the NSW Environment Protection Authority (EPA) to accept such waste. Please see Appendix F of City of Canada Bay's Asbestos Policy, Contact NSW EPA on 131 555 or visit www.epa.nsw.gov.au for a list of waste management facilities licensed to accept asbestos waste.

(Reason: Health and Safety)

Conditions which must be satisfied prior to the issue of a Final Occupation Certificate

55. **DAFOA01 - Fire Safety Certificate**

A final Fire Safety Certificate shall be obtained in accordance with Part 9, Division 4 of the Environmental Planning and Assessment (Amendment) Regulation 2000, **prior to the issue of the Final Occupation Certificate** for the building.

A copy of the Fire Safety Certificate and fire safety schedule shall be:-

1. Forwarded to City of Canada Bay Council;
2. Forwarded to the Commissioner of the New South Wales Fire Brigade;
and
3. Prominently displayed in the building.

(Reason: Fire safety)

56. DAFOE01 - Certification of the Constructed Stormwater Drainage System

The constructed stormwater drainage system shall be certified by a Chartered Professional Civil Engineer with Institution of Engineers, Australia Corporate Membership and registered on the National Engineers Register (NER), in accordance with Council's "Appendix 2 - Engineering Specifications of the Canada Bay Development Control Plan", **prior to issue of the Final Occupation Certificate**.

(Reason: Adequate stormwater management)

Conditions which must be satisfied during the ongoing use of the development

57. DAGCB07 - Lighting

Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with relevant standards in this regard.

(Reason: Protect amenity of surrounding area)

58. DAOUC06 - Noise, Air or Water Pollution - Protection of the Environment Operations Act 1997

The activities carried out on site shall not constitute a nuisance in relation to noise, air or water pollution as specified under the Protection of the Environment Operations Act 1997.

(Reason: Environmental protection)

59. DAOUC12 - Acoustic Assessment

All recommendations contained in the approved acoustic assessment report prepared by (insert name of consultant/company and date of report) shall be adopted, implemented, and adhered to. The Principal Certifying Authority (PCA) shall obtain a certificate from an appropriately qualified acoustic consultant, stating that the recommendations outlined in the above stated report have been completed and that relevant noise criteria have been satisfied prior to the issue of any Occupational Certificate. Any changes made to the proposal that would alter the outcome will require a further assessment and a copy of this further report shall be provided to the PCA for approval and all recommendations of the report shall be adopted, implemented and available upon request of the Council.

(Reason: Noise Control and Amenity)

60. DAOUC13 - Further Acoustic Assessment

Following occupation of the building/premises, should it be found that the measures recommended in the acoustic assessment are not sufficient, or have been incorrectly installed or a noise issue (relating to the development) not

previously identified arises (through complaint or otherwise), the owner/ occupier shall, upon request by Council, employ the services of a qualified acoustic consultant to undertake a post occupation assessment of the development and complete an assessment report with recommendations to rectify the situation . A copy of this report shall be submitted to Council for approval and from there noise attenuation works shall be implemented.

(Reason: Noise Control and Amenity)

61. DAOUC16 - Noise Complaints - General

The development must not cause offensive noise as defined by the *Protection of the Environment Operation Act 1997 (NSW)*. Following occupation, should complaints of a noise nuisance be received and substantiated by an authorised officer, an acoustic assessment shall be conducted by a qualified acoustic consultant and the resulting report shall be provided to Council for assessment. Should the recommendations in the report be accepted, the owner/occupier shall then implement all recommendations contained in the assessment report within a timeframe agreed to by Council.

(Reason: Noise Control and Amenity)

62. DAOUA01 - Amplified Music

Music and other amplified sound played on the premises shall not give rise to offensive noise as defined under the provisions of the *Protection of the Environment Operations Act 1997*. The sound level output shall not exceed 5 dB(A) above the ambient background level at the boundary of the premises.

Speakers must not be installed and music must not be played in any of the outdoor areas associated with the premises including the public domain. Speakers located within the premises must not be placed so as to direct the playing of music towards the outdoor areas associated with the premises.

(Reason: Environmental amenity)

63. Noise - General

(a) The emission of noise associated with the use of the premises including the operation of any mechanical plant and equipment shall comply with the following criteria:

(i) The LAeq, 15minute noise level emitted from the use must not exceed the background noise level LA90, 15minute by more than 5dB when assessed at the boundary of any affected residence.

(ii) The LAeq,15minute noise level shall be adjusted for modifying factors in accordance with Part 4 of the Environmental Protection Authority (EPA) NSW Industrial Noise Policy.

(iii) The background noise level shall be measured in the absence of noise emitted from the use in accordance with Australian Standard AS 1055.1-1997-Description and measurement of environmental noise.

(b) An LAeq,15minute noise level emitted from the use must not exceed the LA90, 15minute noise level by more than 3dB in any Octave Band

Centre Frequency (31.5 Hz to 8 kHz inclusive) when assessed inside any habitable room of any affected residence provided that;

(i) Where the LA90, 15minute noise level is below the threshold of hearing Tf at any Octave Band Centre Frequency as defined in Table 1 of International Standard ISO 226 - Normal Equal-Loudness-Level Contours then the value of Tf corresponding to that Octave Band Centre Frequency shall be used instead.

(ii) The LAeq,15minute noise level and the LA90,15minute noise level shall both be measured with all external doors and windows of the affected residence closed;

(iii) The LA90, 15minute noise level shall be measured in the absence of noise emitted from the use but with the ventilation equipment (excluding air-conditioning equipment) normally servicing the affected residence operating.

(Reason: Noise Control)

64. Noise from Outdoor Play

The LAeq, 15minutes noise level emitted from the use must not exceed 10dB above the background (L90) noise level as a result of outdoor play at the school where such play does not exceed 2 hours per day, and 5dB above the background (L90) noise level where such play is greater than 2.0 hours duration per day. The source noise should be assessed at the boundary of any affected receiver. The background noise level must be measured in the absence of noise emitted from the use in accordance with Australian Standard AS1055.

(Reason: Noise Control)

65. Compliance with Acoustic Report

All recommendations contained in the acoustic assessment report prepared by Day Design dated 23rd August 2017 report reference 6096.1.1R shall be adopted, implemented, and adhered to. The following recommendations contained in the report on page 19 sections 5.0 recommendations 5.1-5.3 must be complied with at all times

(Reason: Noise Control and Amenity)

66. DAOUA12 – No additional Students or Staff

This development application does not grant consent for the increase in either student or staff numbers beyond the existing permitted to attend the school at any one time. Any increase in this number shall be subject to the further development consent of Council.

(Reason: Environmental Amenity)

67. DAOUB01 - Annual Fire Safety Statement

Pursuant to Part 9, Division 5 of the Environmental Planning and Assessment Regulation (as amended) the owner of the building shall furnish Council with an

Annual Fire Safety Statement from a competent person so as to certify the essential fire safety measures in the building. The Annual Fire Safety Statement shall be within 12 months of the issue of the fire safety certificate, and then on an annual basis.

A copy of the Fire Safety Statement obtained and Fire Safety Schedule shall also be:-

1. Forwarded to the Commissioner of the New South Wales Fire Brigade;
and
2. Prominently displayed in the building

(Reason: Fire safety)

68. **DAOUC15 - Noise (General)**

The use of the premises shall comply with the requirements of the Environmental Pollution Authority's Industrial Noise Policy 2000 and shall not give rise to the transmission of offensive noise as defined in the Protection of the Environment Operation Act 1997 (NSW).

(Reason: Noise Control and Amenity)

69. **DAOUC17 - Noise Complaints Relating to Equipment**

Following installation of the air conditioning units, should substantiated complaints or breaches of noise regulations occur, a suitably qualified acoustic consultant shall be engaged, with the Council and the operator/owner of the premises agreeing on the acoustical consultant, to measure noise emanating from the building/premises and to recommend appropriate action. The reasonable cost of such appointment shall be borne by the operator/owner and any works recommended by the acoustic consultant shall also be borne by the operator/owner and carried out within a time frame set by Council.

(Reason: Amenity and Noise Control)

70. **DAOUC19 - Compliance with Noise Control Legislation**

The applicant shall ensure that all activities within the premises comply with the relevant sections of the Protection of the Environment Operations Act 1997 and Regulations; the NSW Environment Protection Authority Industrial Noise Policy (2000) and relevant Australian Standards on Noise Control on Construction, Maintenance and Demolition Sites.

(Reason: Noise Control and Amenity)

Advisory Notes

a) **DAANN01 - Dial Before You Dig**

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at www.1100.com.au or telephone 1100 before excavating or erecting structures. (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working

in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.



Telecommunications Act 1997 (Commonwealth)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's mobile network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision or essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800 810 443.

b) **DAANN04 - Lapsing of Consent**

In accordance with Section 4.53 of the Environmental Planning and Assessment Act 1979 (as amended), this Development Consent lapses five (5) years after the date from which it operates unless building, engineering or construction work has physically commenced. **A Construction Certificate must be obtained and the works commenced in accordance with the approved plans and specifications within five (5) years from the date of this Development Consent.**

c) **DAANN06 - Process for Modification**

The plans and/or conditions of this Consent are binding and may only be modified upon written request to Council under Section 4.55 of the Environmental Planning and Assessment Act, 1979 (as amended). The request shall be accompanied by the appropriate fee and application form. You are not to commence any action, works, contractual negotiations, or the like, on the requested modification unless and until the written authorisation of Council is received by way of an amended consent.

d) **DAANN07 - Review of Determination**

In accordance with the provisions of Section 8.2 of the Environmental Planning and Assessment Act 1979 (as amended) the applicant can request Council to review this determination. The request must be made within a period of 6 months from the date shown on this determination. A fee, as prescribed under Council's current Management Plan - Fees and Charges, is payable for such a review.

e) **DAANN08 - Right of Appeal**

Section 8.7 and 8.10 of the Environmental Planning and Assessment Act 1979 (as amended), gives the applicant the right to appeal to the Land and Environment Court within six (6) months after the date on which you receive this notice. Section 97 does not apply to the determination of a development application for State significant development or local designated development that has been the subject of a Commission of Inquiry.

f) **DAANN10 - Skips on Council Footpath**

The applicant must apply to Council's Customer Services Centre and pay the respective minimum ten (10) day application fees and deposit, should a mini-skip type or larger builder's waste container be required to be left on Council's footpath, nature strip or roadway for the removal of any builder's waste etc. These fees must be paid prior to the container's placement. In the event of the container being removed within the ten day period, and the Council being notified, a pro-rata refund will be made. If the container is to remain at the site for longer than ten days, a further fee must be paid before the ten day period expires. No consultation is necessary if placing the container within the property to which this application is related. However, caution should be exercised in placing the bin to ensure no damage occurs to Council property.

g) **DAANN11 - WorkCover Requirements**

The Work Health and Safety Act 2011 and subordinate regulations, codes of practice and guidelines control and regulate the development industry.

Further information can be obtained from WorkCover NSW's website at <http://www.workcover.nsw.gov.au/newlegislation2012/your-industry/construction/Pages/default.aspx> or through their head office: WorkCover NSW, 92-100 Donnison Street, GOSFORD 2250 Postal address: WorkCover NSW, Locked Bag 2906, LISAROW 2252, Phone (02) 4321 5000, Fax (02) 4325 4145.

