

SYDNEY NORTH PLANNING PANEL

Panel Reference	2018SNH010 DA
DA Number	DA214/2017/2
Local Government Area	North Sydney Council
Proposed Development	Section 4.55(2) to modify Consent No 214/17 with regard to lowering the hall into the ground by 3m; minor internal design alterations; increasing side setbacks to multi-purpose hall; school signage, landscaping; change to windows and door on Level 1; change to materials and colour scheme.
Street Address	149 West Street CROWS NEST NSW 2065
Applicant	The NSW Department of Education C/O Urbis P/L
Owner	The NSW Department of Education
Date of DA lodgement	21 February 2018
Number of Submissions	Three (3)
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	S4.55(2) Modification Application of development with Capital Investment Value (CIV) exceeds \$5 Million – Crown Development
List of All Relevant s4.15(1)(a) Matters	Environmental Planning & Assessment Act 1979 Disability Discrimination Act 1992 SEPP (Educational Establishments and Child Care Facilities) 2017 SEPP 64 (Advertising and Signage) SEPP (Infrastructure) 2007 North Sydney LEP 2013 North Sydney DCP 2013
List all documents submitted with this report for the panel's consideration	<ul style="list-style-type: none"> • Revision C Plans and Elevations – AR DA 0000D, AR DA 1001E, AR DA 1002D, AR DA 1101E, AR DA 1102D, AR DA 1103D, AR DA 1104D, AR DA 3001E, AR DA 3002B, AR DA 3101D and AR DA 4001E – prepared by TKD Architects, dated 9 February 2018 and lodged 21 February 2018 • Applicants Statement of Modifications • Applicants Response to Submissions including Acoustic assessment • As approved Conditions of Development Consent • Without prejudice Conditions
Recommendation	Approval (subject to modification to conditions)
Report by	Kim Rothe, Senior Assessment Officer, North Sydney Council
Report date	28 May 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? **Not Applicable**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **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

EXECUTIVE SUMMARY

The proposed modifications are to DA 214/17 (Panel Reference 2017SNH058) which granted approval for change of use from Crows Nest TAFE to Cammeraygal High School Senior campus, refurbishment of existing building, construction of multi-purpose hall, outdoor covered area, ESD upgrades with solar panels, removal of 60 car spaces, new security fencing. Consent was granted by the Panel on 8 November 2017.

The application is made pursuant to Section 4.55(2) and seeks to lower the multi purpose hall further into the ground by 3m; minor internal design alterations; increasing side setbacks to multi-purpose hall; school signage, landscaping; change to windows and door on Level 1; change to materials and colour scheme.

The Council's notification of the proposal as modified has attracted three (3) submissions. One submission was received from the Registry Precinct. Two submissions are from individuals however contain the names of additional signatories containing an additional 4 and 19 people respectively.

The submissions raise no fundamental concerns with the modifications and indeed the reduction to overall height and general scale of the hall are generally well received. Notwithstanding this, the concerns raised in the submissions include:

- *Raise concern over the significant increase to the amount of glass louvering on the northern side of the hall.*
- *Concern over the updated acoustic report which indicates emitted noise could exceed Building Code of Australia residential bedroom amenity parameters.*
- *Raise concern over a doorway on the western side of the building orientated towards the north.*
- *Raise concern over the ongoing potential hours or usage of the hall*
- *The resident party to the north of the site questions why the hall had its western setback increased but not the northern setback.*
- *Request that all acoustical amenity conditions of the original consent are carried forward through in this Section 96.*
- *Request that additional conditions be appended relating to acoustical rating of glass (request that specific brands of glass be used)*
- *Request that an additional condition be applied that the applicant takes all reasonable steps during the operational phase of the school to ensure that community use of the multipurpose hall does not generate unreasonable levels of noise that would adversely impact on the neighbours adjacent to the hall.*

As this modification is a Section 4.55(2) application pursuant to a development that as approved has a Capital Investment Value (CIV) of greater than \$5 million for Crown infrastructure to the existing educational establishment, the consent authority for the development application is the Sydney North Planning Panel.

The Department of Education has confirmed that it wishes this proposal be determined as submitted and has granted concurrence to the as tendered without prejudice modifications to the conditions of development consent.

The assessment of the proposal has considered the concerns raised by submitters as well as the performance of the application against State Government Policy and Council's planning requirements.

Following assessment of the plans and associated information, the development as proposed to be modified is recommended for **approval**.

DESCRIPTION OF THE PROPOSAL

Development Application 214/17 (Panel Reference: 2017SNH058 DA) was registered with the panel 24 July 2017. Approval was sought to adapt and refurbish the existing Crows Nest TAFE to accommodate Cammeraygal High School's Senior Campus (The School). This DA seeks consent for the following works:

- Internal refurbishments to the existing 4-storey TAFE building;
- External activities area on roof of existing main building
- Construction of a new multi-purpose hall with stage, change room facilities and storage capacity;
- Construction of an outdoor covered area associated with the new multi-purpose hall;
- ESD upgrades throughout existing building and solar panels to roof of main building;
- Removal of 60 car parking spaces to accommodate new play area;
- 27 Car parking spaces proposed to be retained;
- New security fencing.
- Capacity for 600 Students and 60 staff (some sharing to occur between the Junior Campus and Senior campus)

The application was determined by the Sydney North Planning Panel on 8 November 2017 subject to modification to the without prejudice conditions tendered to the applicant prior to the determination meeting.

MODIFICATIONS SOUGHT

This Section 4.55(2) application seeks the following modifications:

- Increased excavation to enable the hall to be lowered into the ground by approximately 3m. The hall will have a height of 10.7m, below the 12m North Sydney LEP height limit.
- Minor internal redesign of the hall to improve accessibility and functionality. The hall will be accessible from ground level to accommodate after hours access.
- Reduction of the overall hall footprint. The setback will be increased as follows:
 - The southern boundary setback will be increased from 8.05m to 11.68m.
 - The eastern boundary setback will be increased from 4.18m to 4.22m.
 - No change to the northern boundary setback.
- Redesign and reposition of proposed school signage and approval for a new low-wattage illumination school sign fronting West Street to display school announcements and achievements.

Proposed Signage	Description	Illumination	Approximate Dimension
Sign 1 – School Identification Sign (no change from DA214/17)	Raised lettering and logo sign fronting West Street.	Nil	H: 2.96m W: 2.96m Total Area: 5.92 m ²
Sign 2 – School Identification Sign	Raised lettering and logo sign on multi-purpose hall, western façade.	Nil	H: 2.96m W: 2.96m Total Area: 5.92 m ²
Sign 3 – School Identification Sign	LED signage with school logo fronting West Street.	Low-wattage LED illumination	H: 0.2m W: 0.7m Total Area: 1.54 m ²

- Redesign of the landscaping arrangement along the eastern boundary to accommodate the existing Sydney Water sewer easement. The planting species is

also proposed to be changed from the Native Quandong to a narrow screening tree called the Pinnacle Syzygium.

- Relocation of the existing grease arrestor from the south-eastern corner of the site to southern boundary adjacent to the accessible car space for out of hours use.
- Additional bicycle parking adjacent to the Rodborough Avenue pedestrian gate.
- Redesign a door and window suite on Level 01 of the existing TAFE building to enlarge the opening to the external wall.
- Changes to proposed materials and colour scheme.

The applicant nominates that condition A1 requires modification to incorporate the new amended plans and has also requested to delete condition C31 Illumination of Signage (to enable the installation of the new illuminated sign to West Street).

STATUTORY CONTROLS

North Sydney LEP 2013

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

S94 Contributions –N/A Crown Development

Environmental Planning & Assessment Act 1979

Disability Discrimination Act

SEPP (Educational Establishments and Child Care Facilities) 2017

SEPP 64 (Advertising and Signage)

SEPP (Infrastructure) 2007

SEPP 55 - Contaminated Lands

SREP (Sydney Harbour Catchment) 2005

POLICY CONTROLS

North Sydney DCP 2013

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

CONSENT AUTHORITY

As this modification is a Section 4.55(2) application pursuant to a development that as approved has a Capital Investment Value (CIV) of greater than \$5 million for Crown infrastructure to the existing educational establishment, the consent authority for the development application is the Sydney North Planning Panel.

CROWN DEVELOPMENT

The development, being proposed by The Department of Education within the meaning of the Higher Education Act 2001, is prescribed as Crown Development pursuant to sections 4.32 and 6.28 of the Environmental Planning and Assessment Act 1979, and section 226 of the Environmental Planning and Assessment Regulation 2000.

The conditions recommended by Council are subject to section 4.33 of the EP&A Act which specifies that Council may not impose a condition of consent of any consent to a Crown DA, except with the approval of the applicant or the Minister. The applicant has been sent draft conditions of consent on 17 May 2018;

Development undertaken on behalf of the Crown is not subject to the issue of a

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

DESCRIPTION OF LOCALITY

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

The existing former Crows Nest TAFE is four-storeys in height and has commenced refurbishment in accordance with the approved works.

Pedestrian access is provided from the main entry on Rodborough Avenue, as well as secondary entrances along Ernest Street (the narrower access handle). An entry point is also provided off West Street.

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

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



ERNEST STREET

MACA STREET

RODBOROUGH AVENUE

SP 49301
SP 74086

801983

1118129

SP 20167

SP 14802

SP 1613

SP 2326

SP 11952

SP 10734

SP 273

SP 56604

SP 48443

SP 69895

SP 44958

SP 16960

SP 9428

SP 49012

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The application was determined by the Sydney North Planning Panel on 8 November 2017 subject to modification to the without prejudice conditions tendered to the applicant prior to the determination meeting.

Subject Modification

The subject modification application was lodged on the 21 February 2018. The development application was placed on notification between 9 March 2018 – 30 March 2018. The Sydney North Panel was briefed to the subject modification on 2 May 2018. Draft without prejudice conditions of modification were tendered to the applicant on 17 May 2018.

INTERNAL REFERRALS

Building

The application as modified has not been specifically assessed specifically in terms of compliance with the National Construction Code (NCC) / Building Code of Australia (BCA). Council's standard condition relating to compliance with the NCC/BCA is imposed upon the existing consent and there is no proposal sought to modify this condition.

Engineering/Stormwater

Council's Development Engineer has advised the modifications can be approved subject to the existing conditions as imposed.

EXTERNAL REFERRALS

Roads and Maritime Services

The RMS has advised they raise no objection to the modifications.

SUBMISSIONS

The owners, occupiers of adjoining properties and the Crows Nest / Hayberry Precinct were notified of the proposal between 9 March 2018 – 30 March 2018.

To date, three (3) submissions have been received. One submission was received from the Registry Precinct. Two submissions are from individuals however contain the names of additional signatories containing an additional 4 and 19 people respectively.

The submissions raise no fundamental concerns with the modifications and indeed the reduction to overall height and general scale of the hall are generally well received. Notwithstanding this, the concerns raised in the submissions include:

- *Raise concern over the significant increase to the amount of glass louvering on the northern side of the hall.*
- *Concern over the updated acoustic report which indicates emitted noise could exceed Building Code of Australia residential bedroom amenity parameters.*
- *Raise concern over a doorway on the western side of the building orientated towards the north.*
- *Raise concern over the ongoing potential hours or usage of the hall*
- *The resident party to the north of the site questions why the hall had its western setback increased but no the northern setback.*
- *Request that all acoustical amenity conditions of the original consent are carried forward through in this Section 96.*
- *Request that additional conditions be appended relating to acoustical rating of glass*

(request that specific brands of glass be used)

- *Request that an additional condition be applied that the applicant takes all reasonable steps during the operational phase of the school to ensure that community use of the multipurpose hall does not generate unreasonable levels of noise that would adversely impact on the neighbours adjacent to the hall.*

CONSIDERATION

The proposal is required to be assessed having regard to the following matters.

Section 4.55(2) of the Environmental Planning and Assessment Act 1979 enables a consent authority to modify a development consent upon application being sought by the applicant or any person entitled to act on the consent, provided that the consent authority:

- *is satisfied that the development to which the consent as modified relates is substantially the same development;*
- *has consulted the relevant Minister, public authority or approval body in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent;*
- *has notified the application in accordance with the regulations and has considered any submissions made concerning the proposed modification; and*
- *in determining the application for modification, has taken into consideration such matters referred to under Section 4.15 as are relevant.*

Therefore, assessment of the application to modify the subject development consent must consider the following issues:

Is the proposed development as modified substantially the same development approved?

The modifications fundamentally do not alter upon the approval of the premises as an educational establishment, the proposal is considered to be substantially the same development as approved because the height and envelope of the building are similar, albeit at a reduced scale.

The environmental impacts of the modified development are substantially the same as the approved development.

Whether the application required the concurrence of the relevant Minister, public authority or approval body and any comments submitted by these bodies.

Concurrence to the proposed modifications to the development consent has been received from the

Whether any submissions were made concerning the proposed modification.

The submissions raise concerns/issues about increased louvring, visual and aural privacy and usage of the multi-function hall. The Section 4.55 proposal does not significantly increase these impacts having regard to the approval already granted. Matters relating to the concerns as raised in the submissions are dealt with elsewhere in the report.

DISABILITY DISCRIMINATION ACT 1992

Consideration made during the proceedings of the original application deemed the proposal could comply or meet the requirements of the Disability Discrimination Act (DDA).

A condition of consent was imposed which requires the design to be certified as being compliant with these standards prior to commencement of work and that the works have been carried out in accordance with the standard prior to occupation of the school. There are no modifications proposed to the condition as imposed. The modifications as proposed do not relieve the applicant's responsibilities to ensure equitable access is provided throughout the new building. The development remains acceptable in this regard.

SEPP (Educational Establishments and Child Care Facilities) 2017

The modifications do not warrant reconsideration of the proposal against Part 4 Clauses 33-42 of the SEPP which are directly applicable to School Development as they do not alter any previous conclusions regarding the general suitability of the proposal against these clause of the SEPP.

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

Design Principle	Response
<i>Principle 1 — context, built form and landscape</i>	The modified design of the proposal, principally the lowering of the overall height of the revised multi-purpose hall further reduces the as approved bulk and scale via the increased excavation and setbacks.
<i>Principle 2 — sustainable, efficient and durable</i>	The new and retrofit works incorporate a number of sustainability features including solar arrays and energy efficient fixtures and fittings. There are no modifications proposed that alter any previous conclusions regarding the general sustainability considerations.
<i>Principle 3 — accessible and inclusive</i>	The existing building and new facilities will undergo an upgrade to improve the accessibility and inclusivity of the school premises. Accessibility is maintained through the multipurpose hall revisions.
<i>Principle 4 — health and safety</i>	The revised design maintains an accessible environment as required by the principle.
<i>Principle 5 — amenity</i>	Amenity impacts to surrounding properties are considered to be improved upon via the proposed amendments to the multi-purpose hall.
<i>Principle 6 — whole of life, flexible and adaptive</i>	The new multi-purpose hall is designed to be adaptable to meet the changing requirements of the school, student body and community.
<i>Principle 7 — aesthetics</i>	The new multi-purpose hall is distinct from the existing buildings on site and utilizes a roof form which creates a varied skyline whilst minimising impacts to adjoining properties.

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

Planning Circular PS 17-004

Discussion was provided under the considerations of the original report regarding this circular and the instruction to limit imposing conditions which cap numbers of students being able to attend the school

No cap on student and staff numbers formed part of the as approved conditions and there are no modifications proposed which would now warrant a recommendation to impose a cap or condition.

SEPP (Infrastructure) 2007

Advice received from Roads and Maritime Services raise no objection to the proposed modifications. RMS matters are able to be resolved prior to occupation of the school premises via the as imposed conditions of consent. The modifications do not seek to alter the as imposed conditions and accordingly, the modifications remain suitable in this regard.

SEPP 55 Remediation of Land

The modifications will not fundamentally alter any previous conclusions regarding the suitability of the proposal and SEPP 55 inclusive of the new additional excavation to occur on site. Conditions already imposed upon the consent notice will remain in force to deal with potential contamination matters.

SREP (Sydney Harbour Catchments) 2005

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

SEPP 64 Advertising and Signage

The signage proposal of the original application was considered acceptable with regard to SEPP 64 Matters but did not include any illuminated signage. A condition was imposed to prohibit illuminated signage.

The modifications include redesign and reposition of proposed school signage and approval for a new low-wattage illumination school sign fronting West Street to display school announcements and achievements.

In detail:

Proposed Signage	Description	Illumination	Approximate Dimension
Sign 1 – School Identification Sign (no change from DA214/17)	Raised lettering and logo sign fronting West Street.	Nil	H: 2.96m W: 2.96m Total Area: 5.92
Sign 2 – School Identification Sign	Raised lettering and logo sign on multi-purpose hall, western façade.	Nil	H: 2.96m W: 2.96m Total Area: 5.92
Sign 3 – School Identification Sign	LED signage with school logo fronting West Street.	Low-wattage LED illumination	H: 0.2m W: 0.7m Total Area: 1.54m ²

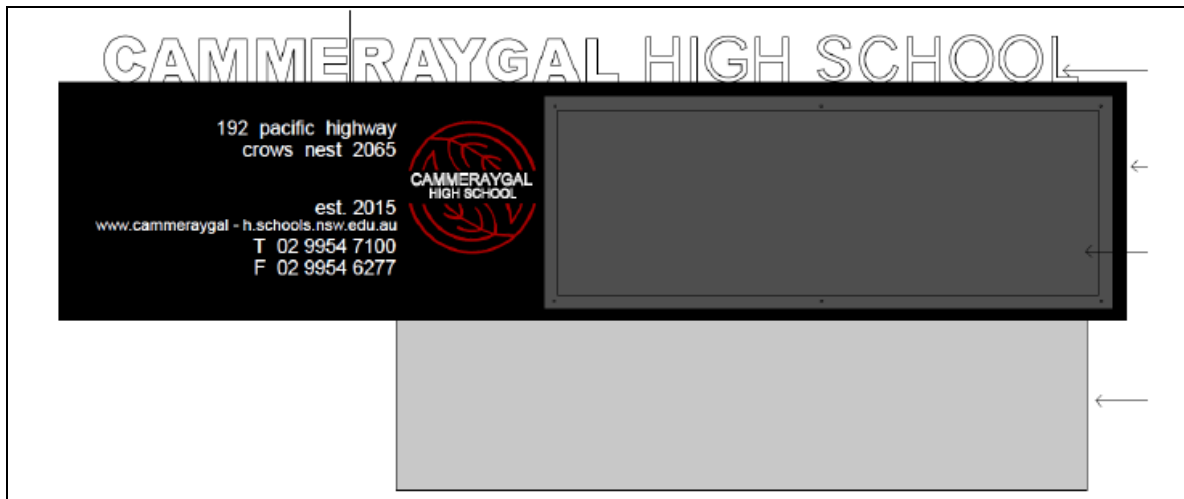


Figure 3: Depiction of new illuminate sign

Clause 8 requires that signage must not be granted consent unless the signage is consistent with the objectives of the Policy and satisfies the assessment criteria specified in Schedule 1. The signage as proposed to be modified is re assessed as follows:

The objectives of the Policy of relevance to this application are:

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

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

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

The Schedule 1 assessment criteria are addressed as follows.

1 Character of the area

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

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

2 Special Areas

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

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

3 Views and Vistas

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

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

4 Streetscape, setting or landscape

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

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

5 Site and Building

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

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

6 Associated Devices and Logos with Advertisements and Advertising Structures

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

Planning Comment: The signs are not general purpose signs and as such there are no logos of advertising companies. The only logo involved is the associated School logo and is appropriate in the circumstances.

7 Illumination

- *Would illumination result in unacceptable glare?*
- *Would illumination affect safety for pedestrians, vehicles or aircraft?*
- *Would illumination detract from the amenity of any residence or other form of accommodation?*
- *Can the intensity of the illumination be adjusted, if necessary?*
- *Is the illumination subject to a curfew?*

Planning Comment: the revised signage will now comprise an illuminated and interchangeable signage for general school announcements. Such signs are now typical of NSW schools. Condition 31 for no illumination is recommended for removal as per the applicant request however there are two new standard conditions recommended to be imposed to regulate content, illumination hours and intensity and content.

8 Safety

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

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

NORTH SYDNEY LEP 2013

Permissibility within the zone:

The subject site is located within a SP2 Infrastructure - Educational Establishment zone, where development for the purposes of an *Educational Establishment* is permissible with consent of Council. The modifications do not alter any previous conclusions in this regard.

SP2 Infrastructure – Educational Establishment Zone Objectives

The specific objectives of the Infrastructure zone are as follows:

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

The proposal as modified, continues to raises no concern with regard to the provisions of the zone.

Building Heights

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

Council made independent assessment of the height breach and also considered the applicants Clause 4.6 variation submitted with the original application even though pursuant to Clause 5.12 of NSLEP 2013, a variation request is not applicable to Educational Establishment proposals and accordingly was not required. On merit however, the height of the multi-purpose hall was supportable and this conclusion was supported by the SNPP.

The subject section 4.55 application has reduced the overall height of the multipurpose hall to 10.7 metres and the proposal as modified is now in compliance with the height control limit for the site. This is due to the increased level of excavation proposed. The development accordingly, continues to be acceptable from a height control perspective. Considerations relating to the increased excavation on site are considered in the following sections of this report.

Clause 5.9 Preservation of Trees and Vegetation

The provisions of Clause 5.9 Preservation of Trees or Vegetation seeks to preserve existing trees and vegetation. The original application considered the removal of a number items of vegetation and trees to be removed to facilitate the works and was supported by the SNPP The development is acceptable in this regard.

Clause 5.10 Heritage Conservation

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

Clause 6.10 Earthworks

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

Excavation was assessed and approved for around the base of the multi-purpose hall and connection points to the main existing building on site.

The subject section 4.55 involves a substantial increase to the amount of excavation required upon the site at up to 3 metres in depths towards the northern end of the proposed multi-purpose hall.

The applicant has prepared the following figures to compare the level of impact in terms of total excavated materials and associated truck movements to remove the material.

	Approved Development	Proposed Development	Difference
Excavated Material	1,523m ³	4,000m ³	+2,477m ³
Truck (Heavy Rigid)	190 trucks	500 trucks	+310 trucks
Truck and Dog (Articulated)	80 trucks	210 trucks	+130 trucks

As per the provisions of Clause 6.10(3) and level of change in excavation proposed in the modifications, the requirements of the clause are reconsidered as follows:

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

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

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

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

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

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

Given the extended educational establishment and surrounding residential history of the site it is unlikely that the site has experienced any significant contaminating activities which would give rise for concern relating to the quality of material to be

excavated and removed off site. Where practicable, some of the excavated material will be re used on site however the majority of the excavated material will be removed off site for disposal to a suitable landfill. Please also refer to the SEPP 55 considerations of this report.

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

The excavation in itself is not considered to result in any amenity impact to these properties beyond unavoidable construction impact. The additional excavation allows the building to be lowered and reduce impacts to surrounding properties. The development and excavation is acceptable in this regard.

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

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

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

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

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

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

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

DEVELOPMENT CONTROL PLAN 2013

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

Relevant Planning Area (Camberay Planning Area – Anzac Neighbourhood)

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

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

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

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

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

Control	Proposed	Complies
3.2.1 Topography Development should not result in a finished ground level greater than 500mm from existing ground level	Excavation and topographical changes exceeding 500 mm are required for the works to and surrounding the new multi-purpose hall. Given the improved setbacks involved surrounding the Hall no objection continues to be raised to this component of the development. All other topography surrounding the existing building to be retained.	No, but acceptable and subject to the original as imposed conditions of development consent.
3.2.5 Noise Specifies noise criteria for assessment of noise impacts from uses in residential zones	<p><u>Construction Phase</u></p> <p>The acoustic report flags that there may be some excessive noise generated during construction works. Management and noise mitigation measures for the construction phase are required to be implemented to ensure acceptable levels of residential amenity are maintained.</p> <p><u>Operational/Ongoing Noise</u></p> <p>Noise from the ongoing operation is to be regulated via the as approved conditions of development consent</p> <p>The increase in glass louvering has been quantified to be increased from 62 m² to 68 m². As per the advice prepared by Wilkinson Murray (attached to this report), this results in a 0.4dB increase in the overall noise level. This difference is acoustically insignificant, does not materially change the predicted noise emission from operation of the hall and will be inaudible when mixed with existing environmental noise.</p>	<p>No but acceptable and subject to the original as imposed conditions of development consent.</p> <p>Conditions relating to the operation of louvers to the north to be retained in the consent (Condition G12).</p>
3.2.7 Artificial Illumination Requires the glare impact of illumination to be minimised	<p>The potential of light spill was considered in the previous applicant and was acceptable subject to a condition requiring any finalized design to minimise light spill.</p> <p>As imposed condition C30 to remain upon consent.</p>	<p>As imposed condition C30 to remain upon consent.</p>

<p>3.2.8 Views</p> <p>Developments are to protect views from residential properties</p>	<p>The design of the original Hall was considered acceptable in this regard</p> <p>The proposal as modified, due to the lowering of the Hall will not result in any new or further adverse view losses.</p>	<p>Yes</p>
<p>3.2.9 Solar Access</p> <p>Development shall not overshadow the solar panels, windows of living areas, communal open space or principal areas of private open space such that solar access is reduced below 3 hours between 9am and 3pm at midwinter.</p>	<p>The design of the original Hall was considered acceptable in this regard and the original report considered the impacts to 11 Rodborough Avenue (south) and 346, 350 & 352 Miller Street (East)</p> <p>The modification increase the setbacks to both the southern boundary and eastern boundary and will result in an improvement to the total solar access these sites will enjoy. The modifications are acceptable in this regard.</p> <p>Revised solar impact diagrams form part of the assessment plan suite</p>	<p>Impacts improved as a result of the modifications</p>
<p>3.2.12 Visual Privacy</p> <p>Developments are required to be designed to maintain the privacy of neighbours</p>	<p>Privacy will be maintained through landscaping along the northern and eastern boundary adjacent to the proposed hall landscaping as well as fencing.</p> <p>The hall will maintain a one-storey interface to residential uses to protect resident's amenity and privacy. Changes rooms and ancillary storage rooms border the northern and eastern extents of the hall for extra buffering measures.</p> <p>The increased setbacks from the eastern and southern boundaries improve upon the separation and reduce the potential impacts in these directions.</p> <p>Nearby residents will not be unfairly impacted in terms of visual privacy.</p>	<p>Yes</p>
<p>3.3.5 Siting</p> <p>Buildings are to be sited to relate to neighbouring buildings and are to be within a single built form addressing the street, with walls parallel to the boundaries.</p>	<p>The new multi-purpose hall is a separate distinct building but has direct links to the adjoining existing buildings. The design and siting of the hall (including amendments in this subject modification) has endeavored to maximize separation to adjoining residential buildings whilst providing for school requirements.</p>	<p>satisfactory</p>

3.3.6 Setbacks Front setbacks are to match adjoining buildings. Side setbacks on R4 land are to be a minimum of 1.5m, but must comply with a building height plane commencing at 3.5m above ground level at the side boundaries and projecting into the site by 45°.	The modifications improve upon the as approved setbacks to the east and southern boundaries. With the increase excavation, the proposal is now compliant with both the building height and building height plane controls.	Yes – S
3.3.7 Form, Massing & Scale Requires the apparent length of a building to be broken down using articulation, the use of high quality materials, use of materials and finishes that relate to surrounding buildings.	The design responds to this control via the use of stepping the low pitch skillion roof form to minimize perceived bulk and scale of the building and steps down from the overriding building of the existing four storey building. The new hall is an appropriate transitional form from the main existing building stepping down to the surrounding lower density residential forms. The development (including modifications) is acceptable in this regard.	Yes
3.3.8 Entrances and Exits Requires main entrances to be visible from the street and be provided with a continuous accessible path of travel.	All existing entry points to the site are maintained being West Street, Rodborough Avenue and the pedestrian link to Ernest Street.	Yes
3.3.9 Colours and Materials Colours and materials are to be reflective of those in the area, using natural colours and tones, with a high proportion of masonry to glass.	The materials and colours reflect the use of the building and are not consistent with those used in the area. Notwithstanding this it is considered that the colours and materials are satisfactory.	Colours and Materials and are acceptable.
3.3.10 Front Fence Fences should be characteristic of those in the area and should not include tall security fencing.	Fencing to remain as per the approval. Refer to as imposed condition G13.	Yes subject to conditions
3.4.1 Accessibility The building is to be designed with appropriate accessibility for persons with disabilities	Recommended conditions are proposed.	Yes subject to conditions
3.4.2 Safety and Security Buildings are to be designed for casual surveillance	The main building incorporates windows overlooking streets car parks and outdoor spaces, allowing for natural surveillance.	Yes
3.4.3 Vehicular Access & Car Parking Should be provided underground or screened from public view and designed to allow entrance and exit in a forward direction.	The parking is an existing area and allows for forward movements of cars. Post development, through site movement for buses will be possible.	Yes

3.4.4 Site Coverage Site coverage is to be a maximum of 45% of the site 3.4.5 Landscaped Area A minimum landscaped area of 40% and maximum unbuilt upon area of 15% applies.	The as approved development did not comply with these requirements however in the circumstances of the use, it was not considered necessary or warranted to comply with the controls. Due to the increased to setback areas, further minor improvements to the landscaping area are achieved. The development as modified remain acceptable in this regard.	Yes
3.5 Efficient Use of Resources Requires buildings to be constructed in an ecologically sustainable manner.	The works will involve a significant upgrade to the existing buildings including the provision of new energy efficient and water saving fixtures and fitting. Additionally, a substantial solar array is proposed to the roof of the main building. Former unused rooftop areas will be refitted to allow for access and use by the student body. The modification do not alter any of these previous conclusions.	Yes

Suspensions of Covenants, agreements and similar instruments

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

SECTION 94 CONTRIBUTIONS

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

ALL LIKELY IMPACTS OF THE DEVELOPMENT

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

ENVIRONMENTAL APPRAISAL

CONSIDERED

1.	Statutory Controls	Yes
2.	Policy Controls	Yes
3.	Design in relation to existing building and natural environment	Yes
4.	Landscaping/Open Space Provision	Yes
5.	Traffic generation and Carparking provision	Yes
6.	Loading and Servicing facilities	Yes
7.	Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes
8.	Site Management Issues	Yes

9. All relevant S79C considerations of Environmental Planning and Assessment (Amendment) Act 1979 Yes

SUBMITTERS CONCERNS

Issues raised by submitters include:

- *Raise concern over the significant increase to the amount of glass louvering on the northern side of the hall.*

Planning Comment: The increase to the amount of glass louvring has been quantified as being increased by 6 m² and has no alteration of significance to the acoustical impact of the development. Please refer to the DCP noise heading assessment and the applicant's response to submissions and supplementary acoustic report in this regard.

- *Concern over the updated acoustic report which indicates emitted noise could exceed Building Code of Australia residential bedroom amenity parameters.*

Planning Comment: The applicants revised acoustic assessment by Wilkinson Murray on this matter (attached to this letter) is that these rates are not applicable to New South Wales. Further, the reference to the above numeric in the Australian Standards 2017 relates to design goals for air conditioning systems.

As outlined in the Acoustic Statement prepared by Wilkinson Murray, the relevant policies for the development are the following:

- NSW Industrial Noise Policy (EPA);
- Assessing Vibration: A technical guideline (EPA);
- Interim Construction Noise Guideline (EPA);

The intrusive noise criteria dictate that the appropriate acoustic level is based on the existing background noise level as measured at the site. Noise modelling for the hall presented in the above report and Figure 1 of the supporting document highlights that the predicted noise level from the hall is equivalent to the existing environmental noise level (transportation, insects, wind in the trees et cetera) in the local area. As a result, while noise from the hall may be audible in the rooms facing the school, so will all the existing environmental noises. This conclusion accords with the intent of the policies, which aim to reduce new noise from developments to a level where it is not intrusive when compared to the existing noise environment.

- *Raise concern over a doorway on the western side of the building orientated towards the north.*

Planning Comment: The application revises the orientation of a northern door. This door is a fire egress point only and does not constitute the principle entry / exit point into the Hall which is located further to the south.

- *Raise concern over the ongoing potential hours or usage of the hall*

Planning Comment: The use of the hall is subject to as imposed condition H1. Council is not in possession of any specific information of the "intended" uses but can advise they must be for bona fide related to the school and community associated uses. Submitters and adjoining residents of the new Cammeraygal School campus can contact the main operating School for information regarding the potential types of uses which may be entertained on the site which remains at the discretion of the school and its Principle.

Third party fully private uses would need Development Approval to go ahead. Any such proposals would require a full DA and notification to residents.

- *The resident party to the north of the site questions why the hall had its western setback increased but not the northern setback.*

Planning Comment: The council is not privy to the specific rationale to the design intent behind the alteration to the setbacks.

- *Request that all acoustical amenity conditions of the original consent are carried forward through in this Section 96.*

Planning Comment: All as imposed acoustical requirements are to remain as imposed upon the consent.

- *Request that additional conditions be appended relating to acoustical rating of glass (request that specific brands of glass be used)*

Planning Comment: The applicant was invited to respond to the concern as raised. The response received advises that there is a non-significant increase to the amount of glass to the northern elevation and that the Hall meets the requirements for acoustical amenity. The requirement to specify a type of glass would need to form a new recommended condition which has not been agreed to by the applicant representing a crown authority.

- *Request that an additional condition be applied that the applicant takes all reasonable steps during the operational phase of the school to ensure that community use of the multipurpose hall does not generate unreasonable levels of noise that would adversely impact on the neighbours adjacent to the hall.*

Planning Comment: Reasonable conditions are already imposed upon the consent to regulate the usage of the hall and acoustical amenity to surrounding properties. Further conditions are unwarranted via the conclusions of this assessment and it would be unlikely they not be agreed to by the Crown Authority.

CONCLUSION

The section 4.55(2) application seeks to modify existing consent to DA 214/17. The development as proposed to be modified is substantially the same development for which consent was granted.

The development as proposed to be modified is considered to adequately satisfy the relevant and applicable provisions of the SEPP (Educational Establishment and Child Care Facilities) 2017, State Environmental Planning Policy No 64 – Advertising and Signage, NSLEP 2013 and NSDCP 2013.

The proposed modifications will not result in any unacceptable adverse environmental or amenity impacts on the surrounding development, the public domain or locality.

The assessment of the proposal has considered the concerns raised by submitters as well as the performance of the application against Council's planning requirements.

The Department of Education has confirmed that it wishes this proposal be determined as submitted and has granted concurrence to the as tendered without prejudice modifications to the conditions of development consent.

Following assessment of the plans and associated information, the development as proposed to be modified is recommended for **approval** subject to modification to the

conditions of development as per the recommendation of this report.

NEGOTIATION OF CONDITIONS OF CONSENT

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

Due to the above restriction on the power of the SNPP, negotiations have been undertaken with Public Authority and their representative to come to an agreed position in relation to the recommended conditions. The Authority / Applicant has been sent draft conditions of consent on 17 May 2018, however, to date, a response is yet to be forthcoming regarding the conditions tendered. It is anticipated that the conditions will be resolved prior to the determination meeting scheduled on 6 June 2018. In this circumstance, the Panel Secretariat will be notified as soon as possible.

RECOMMENDATION

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

- A. **THAT** the Sydney North Planning Panel as the consent authority, modify its consent dated 8 November 2017 for refurbishment of existing buildings and construction a new multipurpose hall for a high school with associated playgrounds, parking and landscaping at No. 149 West Street. Crows Nest, under the provisions of Section 4.55 of the Environmental Planning and Assessment Act with regard to 2017SNH058 – North Sydney - Development Application No.214/17/2, only insofar as will provide for the following conditions:-

1. To amend Condition A1, as follows: -

A. Conditions that Identify Approved Plans (Section 4.55 Amendments)

- A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions of this consent.

Plan No	Issue	Dated	Title	Drawn by	Received
AR.DA.0000	€ D	9 June 2017 9 February 2018	Cover sheet, Location Diagram/ Drawing List	TKD Architects	23 June 2017 21 February 2018
AR.DA.1000	D	8 August 2017	Existing and Demolition Site Plan	TKD Architects	16 August 2017
AR.DA.1001	D E	8 August 2017 9 February 2018	Proposed Site Plan	TKD Architects	16 August 2017 21 February 2018
AR.DA.1002	€ D	9 June 2017 9 February 2018	Site Analysis	TKD Architects	23 June 2017 21 February 2018
AR.DA.1101	€ E	9 June 2017 9 February 2018	Ground Floor Demolition Plan	TKD Architects	23 June 2017 21 February 2018
AR.DA.1102	€ D	9 June 2017 9 February 2018	First Floor Demolition Plan	TKD Architects	23 June 2017 21 February 2018

AR.DA.1103	C D	9 June 2017 9 February 2018	Second Floor Demolition Plan	TKD Architects	23 June 2017 21 February 2018
AR.DA.1104	C D	9 June 2017 9 February 2018	Third Floor Demolition Plan	TKD Architects	23 June 2017 21 February 2018
AR.DA.2001	D	8 August 2017	Proposed Ground Floor Plan	TKD Architects	16 August 2017
AR.DA.2002	C	9 June 2017	Proposed First Floor Plan	TKD Architects	23 June 2017
AR.DA.2003	C	9 June 2017	Proposed Second Floor Plan	TKD Architects	23 June 2017
AR.DA.2004	C	9 June 2017	Proposed Third Floor Plan	TKD Architects	23 June 2017
AR.DA.2005	C	9 June 2017	Proposed Roof Plan	TKD Architects	23 June 2017
AR.DA.3001	D E	8 August 2017 9 February 2018	Elevations sheet 01	TKD Architects	16 August 2017 21 February 2018
AR.DA.3002	A B	8 August 2017 9 February 2018	External Signage Details	TKD Architects	16 August 2017 21 February 2018
AR.DA.3101	C	9 June 2017	Sections Sheet 01	TKD Architects	23 June 2017
AR.DA.3102		November 2016	Sections Sheet 02	TKD Architects	23 June 2017
AR.DA.4001	D E	8 August 2017 9 February 2018	3D Perspectives	TKD Architects	16 August 2017 21 February 2018
L-0002	C	08 September 2017	Materials and Plant Schedule Sheet 1 of 1	Context	02 November 2017
L-4001	B	08 September 2017	Planting Plans Sheet 1 of 7	Context	02 November 2017
L-4002	B	08 September 2017	Planting Plans Sheet 2 of 7	Context	02 November 2017
L-4003	B	08 September 2017	Planting Plans Sheet 3 of 7	Context	02 November 2017
L-4004	B	08 September 2017	Planting Plans Sheet 4 of 7	Context	02 November 2017
L-4005	B	08 September 2017	Planting Plans Sheet 5 of 7	Context	02 November 2017
L-4006	B	08 September 2017	Planting Plans Sheet 6 of 7	Context	02 November 2017
L-4007	B	08 September 2017	Planting Plans Sheet 7 of 7	Context	02 November 2017

In the case of an inconsistency between the plans above, the plan with the later date prevails to the extent of the inconsistency. In the event of an inconsistency between the plans and a condition of this consent, the condition of consent prevails to the extent of the inconsistency.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

(Condition Modified under DA214/17/2)

2. To delete Condition C31:-

~~Illumination of Signage~~

~~C31. The approved signage shall not be illuminated.~~

~~(Reason: ——— To minimise impact upon neighbours)~~

(Condition deleted under DA214/17/2)

3. To insert new Conditions H3 and H4:-

Hours of Illumination

H3. All illuminated signs approved by this consent must cease illumination between the hours of 11:00 pm and 7:00 am.

(Reason: To ensure appropriate forms of signage that are consistent with Council's controls and those that are desired for the locality, and do not interfere with amenity of nearby properties)

Signage Illumination Intensity

H4. The sign(s) must be installed and used at all times in accordance with AS 4282-1997 control of obtrusive effects of outdoor lighting and must be restricted in accordance with the following:

- (a) At no time is the intensity, period of intermittency and hours of illumination of the sign to cause objectionable glare or injury to the amenity of the neighbourhood.
- (b) The level of illumination and/or lighting intensity used to illuminate the signage must not cause excessive light spill or nuisance to any nearby residential premises.
- (c) The signage illumination must not flash.

(Reason: To ensure appropriate forms of signage that are consistent with Council's controls and those that are desired for the locality, and do not interfere with amenity of nearby properties)

Kim Rothe
SENIOR ASSESSMENT OFFICER

Stephen Beattie
MANAGER DEVELOPMENT SERVICES