

# STATEMENT OF ENVIRONMENTAL EFFECTS Greenwich Public School (Kingslangley Rd Campus)

32 KINGSLANGLEY ROAD,  
GREENWICH



**PROJECT:** Statement of Environmental Effects

**ADDRESS:** 32 Kingslangley Road, Greenwich

**COUNCIL:** Lane Cove Council

**DETERMINED BY:** Sydney North Planning Panel

**AUTHOR:** Think Planners Pty Ltd

Date	Purpose of Issue	Rev	Reviewed	Authorised
6 November 2017	Draft Issue for client review	Draft	BD	JW
27 February 2018	DA Lodgement Issue	Final	BD	JW

**Integrated Development (under S91 of the EP&A Act). Does the development require approvals under any of the following legislation?**

Fisheries Management Act 1994	No
Heritage Act 1977	No
Mine Subsidence Act 1992	No
Mining Act 1992	No
National Parks and Wildlife Act 1974	No
Petroleum (Onshore) Act 1991	No
Protection of the Environment Operations Act 1997	No
Roads Act 1993	No
Rural Fires Act 1997	No
Water Management Act 2000	No

**Concurrence**

SEPP 1- Development Standards	No
SEPP 64- Advertising and Signage	No
SEPP 71 – Coastal Protection	No
SEPP (Infrastructure) 2007	No
SEPP (Major Development) 2005	No
SREP (Sydney Harbour Catchment) 2005	No

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## EXECUTIVE SUMMARY

This Statement of Environmental Effects has been prepared in support of a Crown Development Application for alterations and additions to the existing Greenwich Public School (Kingslangley Road Campus). The alterations and additions include:

- Removal of 26 trees;
- Removal of 10 demountable buildings from the site;
- Removal of landscaping elements including sports court, cricket nets and seating areas.
- The construction of a 3 storey learning cluster in the vicinity of the existing sports court in the north western corner of the site containing 18 permanent teaching spaces, group rooms, a library, and amenities. The roof of this building is proposed to contain a 40kw solar panel system;
- Expansion of the existing school hall;
- Conversion of a two home bases to a Canteen and OOSH facility for 150 students;
- Conversion of one homes base in Building A to an administration area and one home base to a dedicated science room;
- Provision of a Covered Outdoor Learning Area (Cola) adjacent to the school hall;
- Provision of a Bulk and Garden Storage Shed adjacent to the carparking area; and
- Landscaping works including tree planting and provision of external seating areas.

The school operates from two campuses, with this one being the larger campus. This campus has 14 existing home bases with an existing equivalent student population of 276 and after the alterations will have 18 home bases and a teaching equivalent space for 368 students. (i.e. an increase of 92 students).

The site is owned by the NSW Department of Education and appears to have been used for educational purposes since the 1940's and contains a number of school buildings and facilities.

The site is surrounded by a mix of landuses comprising low density residential properties, a neighbourhood shopping centre, and townhouses.

The site is zoned R2 Low Density Residential under Lane Cove Local Environmental Plan 2009. *'Educational establishments'* are not permissible with consent under this instrument within a R2 zone. In this regard, the proposal relies upon the provisions of clause 35 of SEPP 2017 - Educational Establishments and Child Care Facilities that allows the proposed to be carried out with development consent.

The proposed alterations, including the construction of a 3 storey learning centre, has been designed to comply with key planning requirements, including FSR, landscaping, and deep soil planting. It is noted that there is a departure to the prescribed maximum building height control, although this is predominantly due to the desire to maximise open space opportunities on the site and to meet operational requirements.

As this is a Crown Application, pursuant to Section 89 of the EP&A Act, conditions can only be imposed with the concurrence of the applicant. In this regard, Council is requested to provide proposed conditions of consent prior to finalisation of the report.

Having regard to the significant public benefits of the proposal and taking into account the absence of potential adverse environmental, social or economic impacts, and that the proposal represents an appropriate use of well located land; the application is submitted to Council for assessment. Think Planners Pty Ltd recommends the approval of the application.

## SITE & LOCALITY DESCRIPTION

The site is legally known as Lot 1 in DP 74691 but commonly known as 32 Kingslangley Road, Greenwich. The site also has frontage to River Road. The site is irregularly shaped with a street frontage of 36.5m to Kingslangley Road and 134.3m frontage to River and has total site area of 2.144 hectares.

The site is surrounded by a mix of landuses comprising low density residential properties both one and two storeys in height, and a private hospital. Pedestrian access to the school is available from both River and Kingslangley Road with vehicular access to the teacher carpark and service vehicles provided from Kingslangley Road.

Both the River Road frontage of the site and Kingslangley Road contain bus stops. On street parking is available in front of the school site along Kingslangley Road.

The site is predominantly surrounded by low density residential properties although a private hospital is located on the southern side of River Road, adjacent to the site.

The site is owned by the NSW Department of Education and appears to have used for educational purposes since the 1940's and contains a number of school buildings and facilities.

The site contains some trees, 26 of which are proposed to be removed to facilitate the development.

The following aerial photograph illustrates the range of landuses adjoining and in the immediate vicinity of the school.



Figure 1 Aerial Photograph (Source Sixmaps 2017).



The photographs provided on the following pages show the site and surrounding land uses in context.



Photograph 1 shows the entrance to the school as viewed from Kingslangley Road



Photograph 2 shows part of the school site as viewed from River Road



Photograph 3 shows properties adjoining the school as viewed from Kingslangley Road



Photograph 4 shows Greenwich hospital located opposite the as viewed from River Road.



## PRE-LODGEEMENT COMMENTS

A Pre-Lodgement meeting was held with Lane Cove Council staff on 29 August 2017 with respect to the proposed development.

The meeting was attended by the following Council staff.

Diep Hang – Senior Town Planner  
 Bruce Dawbin – Heritage Advisor  
 David Wilson – Manager Environmental Health  
 Sashika Perera – Traffic Engineer  
 Ray Bechara – Development Engineer

The following representatives of the applicant attended the meeting:

Ian Guthrie -Senior Project Manager -TSA  
 Daphne Cheong- Senior Architect – GHD  
 Brad Delapierre -Planning Manager -Think Planners

The following table discusses the main issues outlined in the pre-lodgement notes that were provided by Council following the meeting.

COUNCIL COMMENT	RESPONSE
<b>Parking</b>  <i>It was discussed at the meeting that having regard to current traffic conditions of the surrounding road network around the school site, and the limited on-street parking available, Council would require that parking be provided at the minimum rate as specified for schools in Part R – Traffic, Transport and Parking of Lane Cove Development Control Plan as follows:</i>	<p>Student numbers on the site will increase by 92 as a result of the development. Teacher numbers are expected to increase by 4 to 16.</p> <p>The school hall is anticipated to accommodate all students at the school.</p> <p>The school currently has 26 on site parking spaces and these will remain after the development.</p> <p>The school generates a need for 13 staff spaces and 18.4 spaces for the hall. Based on this the proposal has a 5.4space variation.</p> <p>A traffic and parking report accompanies this development application and outlines why the provision of additional parking to cater for the additional teachers is not warranted as it would reduce open space provision on the site and noting the availability of public transport to access the site and the availability of on-street parking in the immediate vicinity of the site.</p>
LEP 2009	

The subject site is zoned R2 – Low Density Residential pursuant to LEP 2009. Educational establishments are permissible within R2 zones with development consent pursuant to Clause 35 of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017.	Noted
- Maximum permitted FSR for the site is 0.5:1. It was advised that the proposed development would comply with the maximum 0.5:1 FSR prescribed for the site.	The development complies with this control.
- Maximum Permitted Building Height: 9.5m. It is recommended that the proposal be amended to comply with the maximum building height permitted.	The development varies this control and appendix A of this report outlines why it is appropriate to vary the standard in this instance.
- Clause 4.6 – A written request for exceptions to development standards would be required if the development does not meet any of the development standards of the LEP.	Noted. A clause 4.6 departure is provided at appendix A.
- It is outlined that the site contains items/objects of Aboriginal significance being a rubbing stone and art in a rock shelter. The subject site is also located within the vicinity of a number of heritage items. In this regard, a Heritage Impact Statement (HIS) is to be prepared by a suitably qualified heritage advisor for submission with the DA.	An Aboriginal Heritage Due Diligence Assessment and Rock Art Advice accompanies this application as well as a Heritage Impact Statement prepared by Heritage 21 accompanies this application and outlines why the proposal is not considered to unduly impact on the curtilage of items within the site and in proximity to the site.

#### **Lane Cove DCP**

The design should ensure the building design allows for casual surveillance of access ways, entries and driveways	The new building provides for casual surveillance within the site.
The proposal must make provision for employee car spaces, accessible car spaces, and visitor car spaces in accordance with Part R for schools.	The proposal seeks to vary this control to maximise open space provision on the site. The traffic report that accompanies this DA outlines why this is appropriate.
There are no specific development controls contained within Lane Cove Development Control Plan for educational establishments. The proposal must demonstrate compliance with the Design Quality Principles contained in Schedule 4 of SEPP (Educational Establishments and Child Care Facilities) 2007 and the Design Guide for Schools.	This Statement addresses the seven design quality principles contained in the SEPP.

The proposed development has been amended in line with Council's comments to satisfactorily address all the key issues raised and this Statement of Environmental Effects provides detailed justification and context with respect to any outstanding items. Please refer to the relevant compliance tables below for further discussion. It is also noted that specialist reports as requested by Council are appended to the Development Application and submitted in support of the proposed development.

## DESCRIPTION OF PROPOSAL

This Crown Development Application seeks approval for alterations and additions to the existing Greenwich Public School (Kingslangley Road Campus). The alterations and additions include:

- Removal of 26 trees;
- Removal of 10 demountable buildings from the site;
- Removal of landscaping elements including sports court, cricket nets and seating areas.
- The construction of a 3 storey learning cluster in the vicinity of the existing sports court in the north western corner of the site containing 18 permanent teaching spaces, group rooms, a library, and amenities. The roof of this building is proposed to contain a 40kw solar panel system;
- Expansion of the existing school hall;
- Conversion of a two home bases to a Canteen and OOSH facility for 150 students;
- Conversion of one homes base in Building A to an administration area and one homebase to a science room.
- Provision of a Covered Outdoor Learning Area (COLA) adjacent to the school hall;
- Provision of a Bulk and Garden Storage Shed adjacent to the carparking area; and
- Landscaping works including tree planting and provision of external seating areas.

The school operates from two campuses with this one being the larger campus. This campus has 14 existing home bases with an existing equivalent student population of 276 and after the alterations will have 18 home bases and a teaching equivalent space for 368 students. (i.e. an increase of 92 students). The proposed OOSH will cater for up to 150 students and provide before school care from 7am to 9am and after school care from 3:10pm until 6pm on school days and vacation care between 7am and 6pm on weekdays during school holidays.

It is noted that the application is a 'Crown' development application and Section 89 of the Environmental Planning and Assessment Act 1979 applies.

The following plans and technical reports are submitted to Council to assist with its assessment of the Development Application.

DOCUMENT	PREPARED BY
Architectural Drawings	GHD Woodhead
Site Survey	CMS Surveyors
Quantity Surveyors Report	Rider Levett Bucknall
Civil Engineering Drawings	GHD
Landscaping Plans	GHD Woodhead
Geotechnical Report	Pells Sullivan Meynink
Access Report	Metro Building Consultancy
Civil and Stormwater Management Report	GHD
Traffic Report	GHD
Heritage Impact Statement	Heritage 21
Aboriginal Heritage Due Diligence Assessment and Rock Art Advice	Cultural Heritage Connections
BCA Report	Metro Building Consultancy
Arborist Report	Birds Tree Consultancy
Waste Management Plan	GHD
Acoustic Report	GHD

## STATUTORY CONTROLS

### STATUTORY CONTROLS

The relevant statutory planning controls include:

- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy No. 55 – Contaminated Land;
- Sydney Regional Environmental Plan- Sydney Harbour Catchment;
- State Environmental Planning Policy (Educational Establishments and Childcare Facilities) 2017; and
- Lane Cove Local Environmental Plan 2011.

## POLICY CONTROLS

The applicable policy control document is:

- Lane Cove Development Control Plan 2011.

### Environmental Planning and Assessment Act 1979

In accordance with clause schedule 4A of the Environmental Planning and Assessment Act as the development is a crown development with a cost of greater than \$5 million, the Sydney North Planning Commission is the approval body.

It is noted that in accordance with clause 89 of this act that conditions can only be imposed with the concurrence of the application and that the planning commission is unable to refuse the development application without the concurrence of the Minister for Planning.

As outlined in the Quantity Surveyors report prepared by Rider Levett Bucknall the proposed development has a cost of greater than \$5 million.

### STATE ENVIRONMENTAL PLANNING POLICY – (INFRASTRUCTURE) 2007

It is noted that clauses 27 -32 of Infrastructure SEPP were removed upon gazettal of the Education and Childcare Sepp 2017 on 1 September 2017.

Clause 104 and Schedule 3 of the ISEPP relate to traffic generating development and certain proposals trigger a requirement for referral to the RMS.

The proposed development does not trigger this requirement as the previous requirement for educational establishments catering for 50 or more students to be referred to the RMS regional traffic committee for input has been removed from this SEPP.

### State Environmental Planning Policy No. 55 Contaminated Land

Clause 7 of SEPP 55 provides:

*(1) A consent authority must not consent to the carrying out of any development on land unless:*

*(a) it has considered whether the land is contaminated, and*

*(b) 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, and*

*(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

A contamination report is an appendix to the Geotechnical report prepared by Pells Sullivan Meynick.

This report indicates that the site contains asbestos and lead, however indicates that this can be managed through the construction phase to ensure that the site remains suitable for a school use

Accordingly, Council can be satisfied that the provisions of Clause 7 of the SEPP are satisfied. If any contaminated material or suspected contaminated material is unearthed during the construction process then actions consistent with the legislative requirements and guideline document will be undertaken.

### SYDNEY REGIONAL ENVIRONMENTAL PLAN (SYDNEY HARBOUR CATCHMENT) 2005 (DEEMED SEPP)

The subject site is identified as being located within the area affected by the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The Sydney Harbour Catchment Planning Principles must be considered and where possible achieved in the carrying out of development within the catchment. The key relevant principles include:

- protect and improve hydrological, ecological and geomorphologic processes;
- consider cumulative impacts of development within the catchment;
- improve water quality of urban runoff and reduce quantity and frequency of urban run-off; and
- protect and rehabilitate riparian corridors and remnant vegetation.

It is noted that the subject site is not identified in the relevant map as 'land within the *'Foreshores and Waterways Area' boundary* or *'Wetland Protection zone'*, is not a *'Strategic Foreshore Site'*. Hence the majority of the SREP is not directly relevant to the proposed development.

Accordingly, the proposed development raises no issues as no impact on the catchment is envisaged.

### State Environmental Planning Policy (Educational Establishments and Childcare Facilities) 2017

The Department of Planning and Environment exhibited the Draft SEPP between 3 February 2017 and 7 April 2017 and the SEPP was gazetted on 1 September 2017.

The SEPP aims to:

- streamline the planning system for education and child care facilities including changes to exempt and complying development;
- ensure NSW will be the first State to bring Commonwealth Laws regulating early childhood education and care into a state planning system;
- bring the Department of Education into the planning process early, and gives child care providers and developers information, from the beginning regarding all national and state requirements for new child care services;
- streamline the delivery of new schools and upgrading existing facilities, with a focus on good design; and
- assist TAFEs and universities to expand and adapt their specialist facilities in response to the growing need, and to maintain our reputation for providing world class tertiary education, while allowing for more flexibility in the use of their facilities

Clause 35(1) of the SEPP permits schools to be carried out with consent in a prescribed zone, with clause 35(5) permitting a school to be utilised with consent for community or commercial purposes.

Clause 35(6) of the SEPP requires a consent authority to take into consideration the design quality of the development when evaluated in accordance with the design quality principles set out in Schedule 4 of the SEPP.

Clause 35(9) of the SEPP states that DCP controls contained within a Council Development Control Plan have no effect with the SEPP stating:

*A provision of a development control plan that specifies a requirement, standard or control in relation to development of a kind referred to in subclause (1), (2), (3) or (5) is of no effect, regardless of when the development control plan was made.*

The following table outlines how the development appropriately addresses the seven design quality principles referenced by clause 35(6) of the SEPP:

Design Quality Principles	Design Responses
<b>Principle 1—context, built form and landscape</b>	

Design Quality Principles	Design Responses
<i>Schools should be designed to respond to and enhance the positive qualities of their setting, landscape and heritage. The design and spatial organisation of buildings and the spaces between them should be informed by site conditions such as topography, orientation and climate. Landscape should be integrated into the design of school developments to enhance on-site amenity, contribute to the streetscape and mitigate negative impacts on neighbouring sites.</i>	<p>The development appropriately responds to the existing built and natural environment on the site.</p> <p>The siting of the new building maximises passive solar gain and natural cross flow ventilation, provides an appropriate internal address within the school site.</p> <p>The building is setback between 8-24m from the boundaries of adjoining low density residential properties and is not considered to result in an undue negative impact of the surrounding but rather will appear as a two – three storey building in a garden setting.</p>
<b>Principle 2—sustainable, efficient and durable</b>	
<i>Good design combines positive environmental, social and economic outcomes. Schools and school buildings should be designed to minimise the consumption of energy, water and natural resources and reduce waste and encourage recycling. Schools should be designed to be durable, resilient and adaptable, enabling them to evolve over time to meet future requirements.</i>	<p>The development incorporates appropriate water sensitive urban design measures including water harvesting from the roof of the new building to reduce reliance on Sydney Water supplies.</p> <p>The building is designed to maximise natural ventilation and in accordance with the Department of Education policy does not incorporate air-conditioning.</p> <p>The development maximises reliance on natural light penetration that will reduce the reliance on artificial illumination.</p> <p>The development incorporates solar panels on the roof of the building that will assist to reduce the schools demand for electricity.</p> <p>The building is constructed of durable materials that are low maintenance and utilise the Department of Education's experience in minimising on-going maintenance costs.</p> <p>The internal planning of the school building ensures that it is adaptable and contains opportunities for break out spaces and group learning that is consistent with modern educational practices rather than only incorporating traditional class rooms.</p>
<b>Principle 3—accessible and inclusive</b>	
<i>School buildings and their grounds should provide good wayfinding and be welcoming, accessible and inclusive to people with differing needs and capabilities.</i>	<p>The new building incorporates a lift that provides access to all throughout the building. Accessible paths of travel are provided from the sites boundaries to school facilities.</p>

Design Quality Principles	Design Responses
<p><i>Schools should actively seek opportunities for their facilities to be shared with the community and cater for activities outside of school hours.</i></p>	<p>The development will incorporate appropriate wayfinding signage to assist visitors and first time users with identifying key areas within the site.</p> <p>The school incorporates an Out of School Hours Care Facility and an expanded hall that will continue to be used by community groups and other activities outside core hours.</p> <p>This ensures that the school is a 'social' hub for the surrounding community and contributes to the social wellbeing of the community.</p>
<p><b>Principle 4—health and safety</b></p> <p><i>Good school development optimises health, safety and security within its boundaries and the surrounding public domain, and balances this with the need to create a welcoming and accessible environment</i></p>	<p>The proposal has had regards to CPTED principles and provides delineation through a combination of landscaping, fencing and signage the 'public' areas of the site when the school is operating.</p> <p>The building maximises access to natural light and ventilation and maximises the provision of outdoor space on the site through the provision of a 2 -3 storey building.</p>
<p><b>Principle 5—amenity</b></p> <p><i>Schools should provide pleasant and engaging spaces that are accessible for a wide range of educational, informal and community activities, while also considering the amenity of adjacent development and the local neighbourhood. Schools should include appropriate, efficient, stage and age appropriate indoor and outdoor learning and play spaces, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage and service areas.</i></p>	<p>The school provides a variety of internal and external learning places that are suitable for formal and informal educational opportunities for students.</p> <p>The new building and the expanded hall incorporates appropriate storage spaces for teachers, students the school and for community users.</p> <p>The new and altered buildings have been located to minimise their visual impact on surrounding buildings, incorporate adequate landscaping that will assist in partially screening the new buildings and provide a pleasant landscaped outlook from both within the site and for views into the site.</p> <p>The buildings maximise natural light penetration through the appropriate use of glazing and facilitate natural cross ventilation.</p> <p>The buildings incorporate acoustic absorbing materials and is appropriately setback from boundaries to reduce excessive noise transmission.</p>
<p><b>Principle 6—whole of life, flexible and adaptive</b></p>	<p>The design of the building considers the future needs of the school and the new learning centre has</p>

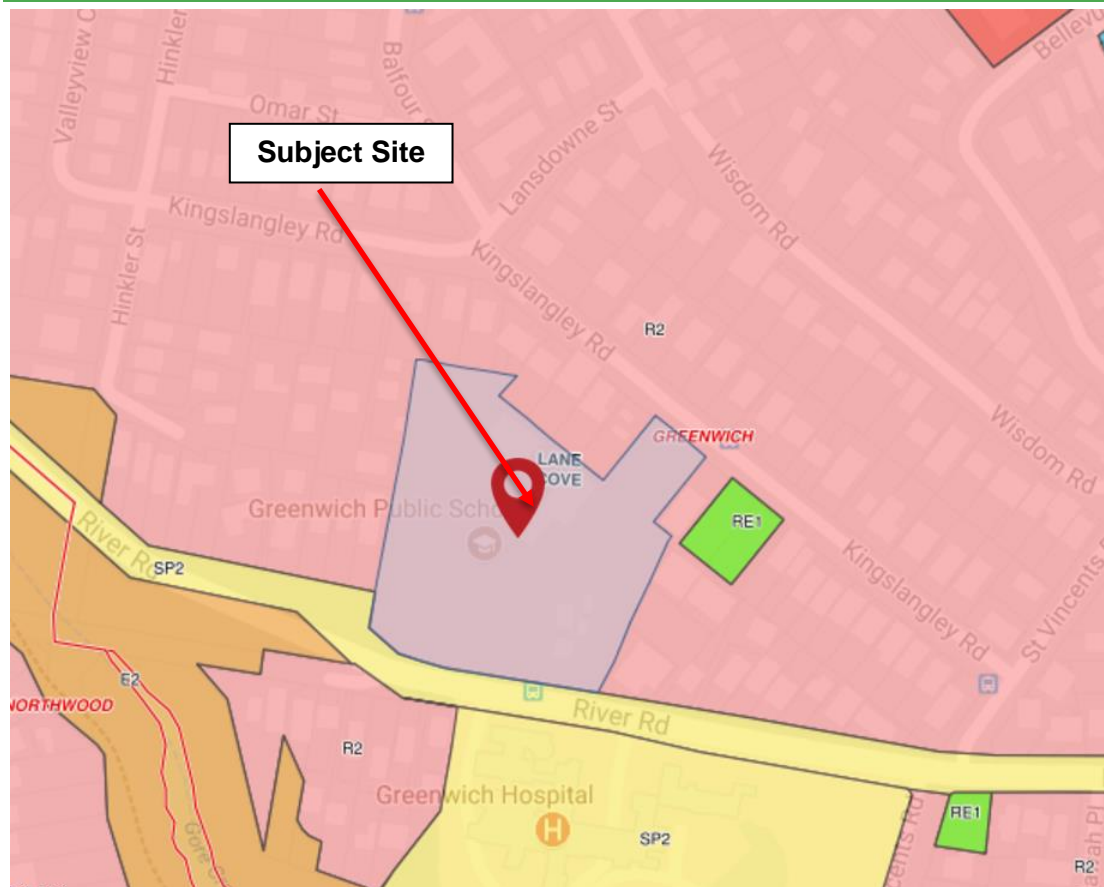
Design Quality Principles	Design Responses
<p><i>School design should consider future needs and take a whole-of-life-cycle approach underpinned by site wide strategic and spatial planning. Good design for schools should deliver high environmental performance, ease of adaptation and maximise multi-use facilities</i></p>	<p>been designed to incorporate both formal learning areas and informal learning spaces, allow for combined educational opportunities and maximise the opportunities for the adaptive use of the building as technology is increasingly used in classrooms by both educators and students.</p> <p>The buildings structural system and structural grid allows for long term design and planning flexibility and the building contains smaller rooms to facilitate small group learning.</p>
<p><b>Principle 7— aesthetics</b></p> <p><i>School buildings and their landscape setting should be aesthetically pleasing by achieving a built form that has good proportions and a balanced composition of elements. Schools should respond to positive elements from the site and surrounding neighbourhood and have a positive impact on the quality and character of a neighbourhood. The built form should respond to the existing or desired future context, particularly, positive elements from the site and surrounding neighbourhood, and have a positive impact on the quality and sense of identity of the neighbourhood</i></p>	<p>The buildings incorporate a high level of finishes that appropriately takes design cues from the surrounding built from both within the school and surrounding land uses.</p> <p>The development will continue to result in the site appearing as a series of buildings in a landscaped setting that is consistent with the patterns and rhythm of surrounding buildings that predominantly comprises buildings in a landscaped setting, setback from the street.</p> <p>The building encourages interaction with the site.</p>

## LANE COVE LOCAL ENVIRONMENTAL PLAN 2009

As illustrated below, the site is zoned R2, by Lane Cove Local Environmental Plan 2009.

*Educational Establishments* are permissible with consent within the subject site via the Education and Childcare SEPP 2017.

**Figure 2: Zoning Map Extract. (NSW Planning portal)**



The proposal is consistent also consistent with the specified zone objectives:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To retain, and where appropriate improve, the existing residential amenity of a detached single family dwelling area.*

- To encourage new dwelling houses or extensions of existing dwelling houses that are not highly visible when viewed from the Lane Cove River or Parramatta River.

- To ensure that landscaping is maintained and enhanced as a major element in the residential environment

The proposed development provides an expanded educational establishment that will meet the day to day needs of surrounding residents with primary school aged students

The following table outlines the primary planning controls in regards to the LEP.

Lane Cove Local Environmental Plan 2009			
Clause	Controls	Comment	Complies
<b>Land Use Table (Zoning)</b>	R2 Low Density Residential	<p>An educational establishment is not indicated as being permissible with Council consent under LEP 2009.</p> <p>This application relies upon clause 35(1) of the Infrastructure SEPP that permits educational establishments in a R2 -Low Residential Zone.</p>	YES
Part 2 Permitted or Prohibited Development			
<b>2.3</b>	Zone Objectives and Land Use Table	The proposal is consistent with the zone objectives of the R2 Low Density Residential zone.	YES
<b>2.6</b>	Subdivision requires consent	Land to which this Plan applies may be subdivided, but only with development consent.	N/A
<b>2.7</b>	Demolition requires consent	The demolition of a building or work may be carried out only with development consent	Yes
Part 4 Principal Development Standards			
<b>4.3</b>	Height of Buildings: 9.5m	<p>The 3 storey learning cluster will exceed this control and is proposed to have a height of 14.17m Given the desire to maximise outdoor and active recreational space for students, a departure to this control is warranted.</p>	Variation

Refer to Appendix A.		
<b>4.4</b>	Floor Space Ratio: 0.5:1	<p>According to Lane LEP 2009 map YES sheet 004 the site benefits from a maximum FSR of 0.5:1.</p> <p>The development complies with this control and has a FSR of approximately 0.12:1.</p>
<b>4.6</b>	Exceptions to development standards	The development seeks to vary the height control. A detailed 4.6 departure (Lane Cove LEP) departure is provided at Appendix A.
<b>Part 5 Miscellaneous Provisions</b>		
<b>5.1</b>	Land reserved for acquisition	The site does not contain land YES identified for acquisition.
<b>5.5</b>	Development within the coastal zone	The site is not located within an N/A identified coastal zone.
<b>5.7</b>	Development below mean high water mark	The site does not contain land below N/A the mean high water mark.
<b>5.9</b>	Preservation of Trees or Vegetation	<p>The site contains 26 trees that are YES proposed to be removed to facilitate the development.</p> <p>The proposal provides landscaping works that will improve and enhance the landscaped setting of the subject site.</p> <p>It is highlighted that no significant vegetation is to be impacted as part of the proposal.</p>
<b>5.10</b>	Heritage Conservation	<p>The site is not heritage listed and is not YES located within a heritage conservation area.</p> <p>The site is located within the wider vicinity of heritage listed properties</p>

along River Road. The development is not considered to unduly impact on the curtilage of these items the Heritage assessment that accompanies this application confirms this.

The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance:

- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and
- (b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.

The site is also identified as containing items of Aboriginal significance being a rubbing stone and art in a rock shelter. The development will not unduly impact on these items.

The Aboriginal Impact Statement submitted with this development application concludes that the impact is acceptable and an IHAP is not required.

In accordance with part b of this clause it is assumed that Council will notify the local Aboriginal community of the proposal and provide them with an opportunity to comment on the proposal.

Notwithstanding this it is noted that limited consultation has already occurred with the local aboriginal community.

#### Part 6 Additional Local provisions

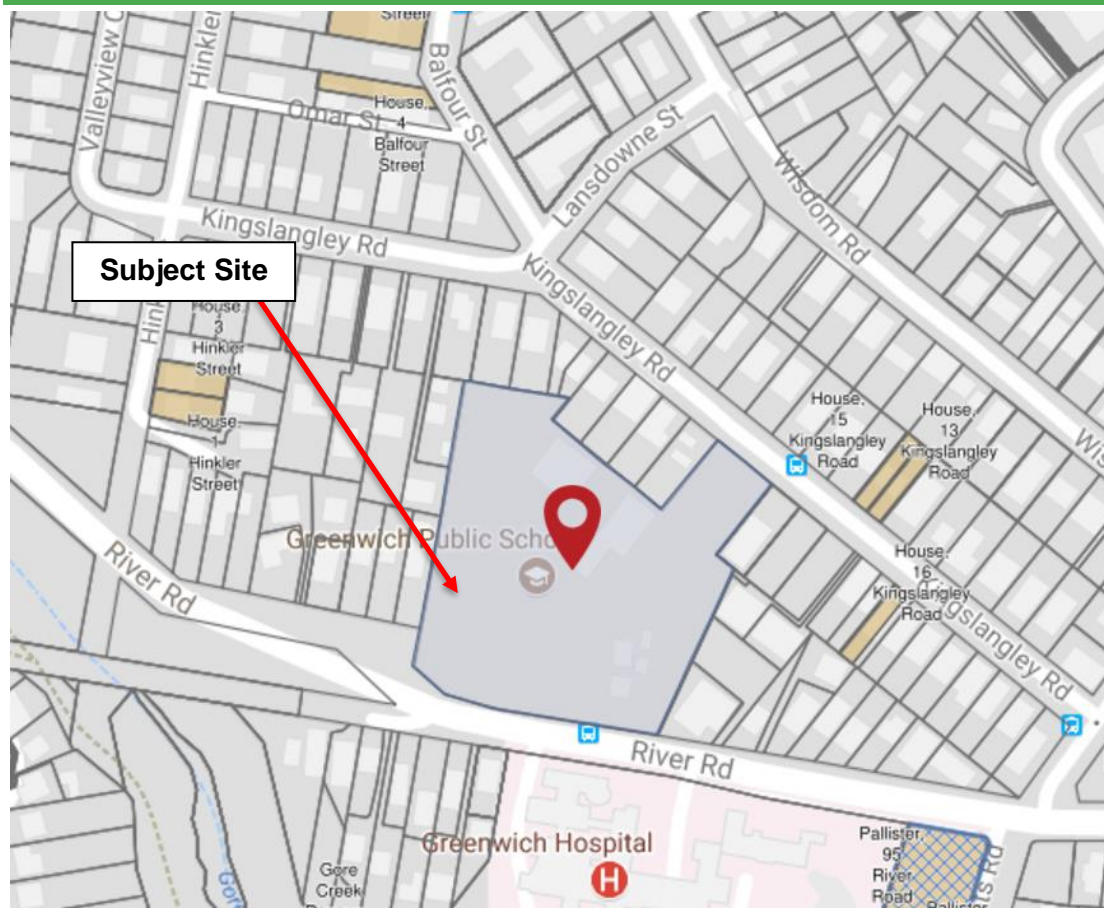
<b>6.1</b>	Acid Sulfate Soil	The subject site is not identified as N/A containing Acid Sulfate Soils.
<b>6.1A</b>	Earthworks	It is considered that the proposed YES excavation, will have minimal adverse environmental or amenity impact.
<b>6.2</b>	Foreshore Building Line	The site is not located within a N/A foreshore area.
<b>6.3</b>	Riparian Land	The site is not identified as containing N/A riparian land.

6.4	Environmental Protection Land The subject site is not identified as NA containing Environmental Protection Land under Lane Cove Local Environmental Plan 2009.
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## HERITAGE

As outlined above, and illustrated below the site is not identified by Lane Cove LEP 2009 as containing a Heritage Item however is located within the wider vicinity of heritage listed properties that are shaded brown on the map below.

**Figure 3: Heritage Map Extract. (NSW Planning portal)**



The Department of Education's Heritage listing also contains the following statement of significance in respect of the site.

**Statement of Significance:** Evidence of Aboriginal cultural activity in school grounds have been noted i.e. rubbing stones and art in a rockshelter. These items are protected by the NP&W Act 1974 (River Road/Kingslangley Road campus)

Item of moveable heritage located in B00A - timber sledge from Robert Scott's Terra Nova Expedition 1910-1913 to South Pole (River Road/Kingslangley Road Campus)

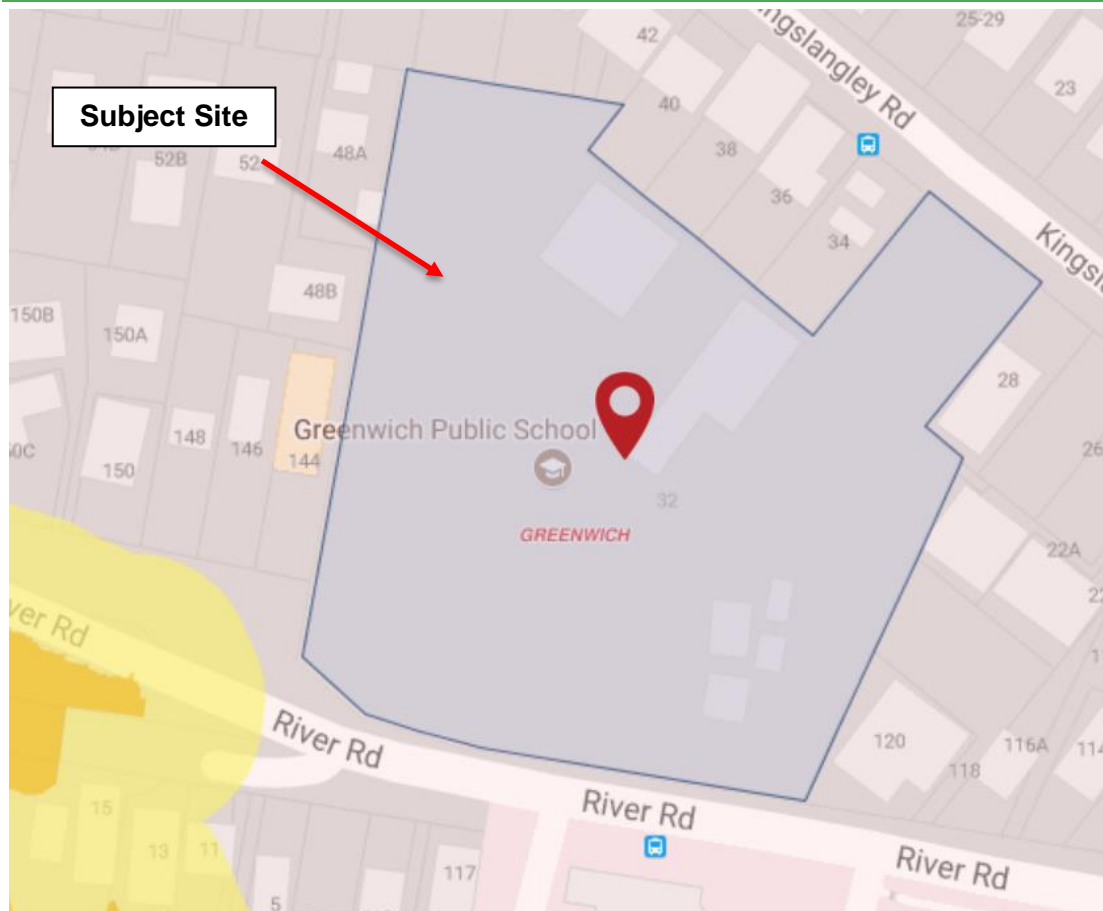
The earliest remaining school built for the suburb belonging to its period of suburban consolidation with development occurring along the peninsular away from the Point and up towards the railway. The school building is a fine building of substantial quality, typical of many of Sydney's suburban educational facilities of its day.

The development will not unacceptably impact on these items and the Aboriginal Heritage Impact statement concludes that the development will not unduly impact on Aboriginal heritage within the site.

## BUSHFIRE

As illustrated by the map below the school is not identified as containing bushfire prone land.

**Figure 4: Bushfire Map: Source NSW: Planning Portal**



## LANE COVE DEVELOPMENT CONTROL PLAN 2009

The DCP does not contains specific standards for educational establishments but rather the following controls, some of which are more applicable to low density - residential development

Given that this proposal is for an expansion of rather than the construction of a new facility, some of these controls are also of less relevance.

Further, clause 35(9) of the Education SEPP states that DCP controls contained within DCP 2009 have no effect:

*A provision of a development control plan that specifies a requirement, standard or control in relation to development of a kind referred to in subclause (1), (2), (3) or (5) is of no effect, regardless of when the development control plan was made.*

Notwithstanding this clause within the Education SEPP, to assist Council with its merit assessment, all relevant Council controls have been considered in the following compliance table.

Lane Cove Development Control Plan 2009			
Clause	Controls	Comment	Complies
<b>B9</b>	Heritage  A Heritage Impact Statement is to be prepared as part of any DA for development "in the vicinity of a heritage item".	This development application will be accompanied by a heritage impact statement that outlines why the proposed three storey learning cluster will not unduly impact on the curtilage of heritage items in the wider vicinity of the site or unduly impact the aboriginal archaeology or rock art within the site.	Yes
<b>R3</b>	Carparking  1 space per 2 staff members in attendance,  1 space per 20 seats in assembly hall	Student numbers on the site will increase by 92 as a result of the development. Teacher numbers are expected to increase by 4 to 16.  The school hall is anticipated to accommodate all students at the school.	Variation

The school currently has 26 on site parking spaces and these will remain after the development.

The school generates a need for 13 staff spaces and 18.4 spaces for the hall. Based on this the proposal has a 5.4space variation.

A traffic and parking report will be submitted with the future development application that outlines why the provision of additional parking to cater for the additional teachers is not warranted as it would reduce open space provision on the site.

### R3

#### Bicycle Parking

1 space per 10 staff for employees

1 rack per school plus 1 rack per 10 students

There is room to accommodate bicycle parking on the site and a condition is requested to be imposed to achieve compliance with this control.

## CONCLUSION

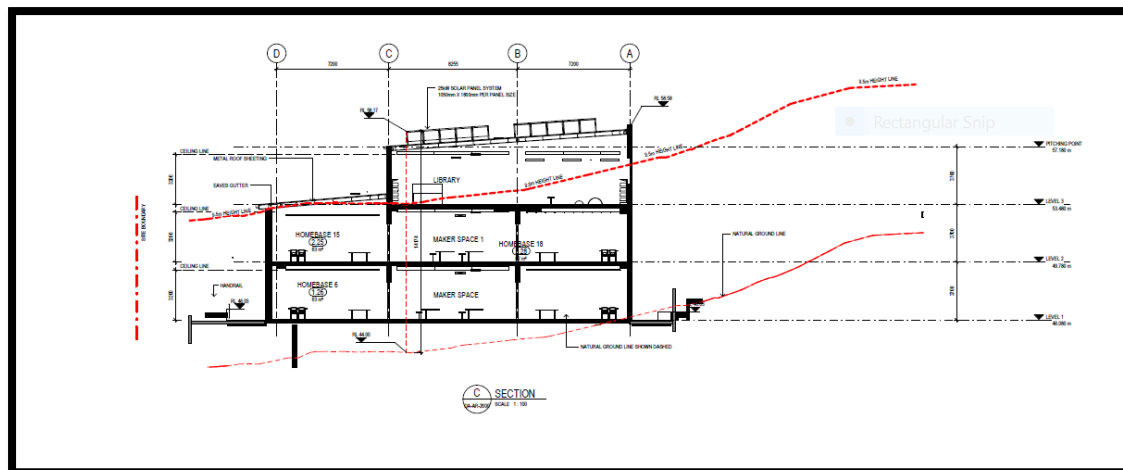
Following a review of the relevant planning controls, it is concluded that the proposed development is consistent with the objectives, planning strategies and detailed controls of these planning documents.

Consideration has been given to the potential environmental and amenity impacts that are relevant to the proposed development and this report addresses these impacts.

Having regard to the benefits of the proposal and taking into account the absence of adverse environmental, social or economic impacts, this crown development application is submitted to Council for assessment and granting of development consent. Think Planners Pty Ltd recommends the approval of the application, subject to necessary, relevant and appropriate conditions of consent.

## ANNEXURE 1: CLAUSE 4.6 VARIATION – HEIGHT OF BUILDING

As shown on the section below, part of the proposed 2 -3 storey learning centre exceeds the 9.5m height control. Accordingly, a variation pursuant to Clause 4.6 of the Lane Cove LEP 2009 is requested, noting the highest point to the solar panels on the roof is 14.17m.



Therefore, a Clause 4.6 variation request has been prepared, noting that the request addresses a number of recent Land and Environment Court cases including *Four 2 Five v Ashfield* and *Micaul Holdings Pty Ltd v Randwick City Council* and *Moskovich v Waverley Council*.

The key tests or requirements arising from the above judgements are that:

- The consent authority be personally satisfied the proposed development will be in the public interest because it is “consistent with” the objectives of the development standard and zone is not a requirement to “achieve” those objectives. It is a requirement that the development be ‘compatible’ with them or ‘capable of existing together in harmony’. It means “something less onerous than ‘achievement’”.
- Establishing that ‘compliance with the standard is unreasonable or unnecessary in the circumstances of the case’ does not always require the applicant to show that the relevant objectives of the standard are achieved by the proposal (Wehbe “test” 1). Other methods are available, for example that the relevant objectives of the standard would not be achieved or would be thwarted by a complying development (Wehbe “test” 3).

- When pursuing a clause 4.6 variation request it is appropriate to demonstrate how the proposal achieves a better outcome than a complying scheme; and
- The proposal is required to be in ‘the public interest’.

In relation to the current proposal the keys are:

- Demonstrating that the development remains consistent with the objectives of the Height standard;
- Demonstrating consistency with the R2 zoning; and
- Satisfying the relevant provisions of Clause 4.6.

These matters are addressed below, noting that the proposal is a preferable outcome to a compliant scheme as it results in a better Urban Design outcome and maximises open space provision on the site.

Clause 4.6 of the Lane Cove Local Environmental Plan 2009 provides that development consent may be granted for development even though the development would contravene a development standard. This is provided that the relevant provisions of the clause are addressed, in particular subclause 3-5 which provide:

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
  - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
  - (a) *the consent authority is satisfied that:*
    - (i) *the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
    - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

- (b) the concurrence of the Director-General has been obtained.*
- (5) In deciding whether to grant concurrence, the Director-General must consider:*
- (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.*

Each of these provisions are addressed in turn.

#### Clause 4.6(3)

In accordance with the provisions of this clause it is considered that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case as the underlying objectives of the control are achieved. The objectives of the building height development standard are stated as:

- (1) The objectives of this clause are as follows:*
- (a) to minimise any overshadowing, loss of privacy and visual impacts of development on neighbouring properties, particularly where zones meet, and*
  - (b) to maximise sunlight for the public domain, and*
  - (c) to relate development to topography*

The current development proposal exceeds the height control by up to 4.67m, however the proposal remains consistent with the objectives based on the following:

- The development proposal is consistent with the intent of the maximum height control and will provide an attractive building that will appear predominantly as two storey building in a garden setting. The 2 storey portion of the building is setback a minimum of 8m from the closest residential boundary with the third storey of the building being setback a minimum of 15.2m from the boundary. This in conjunction with the retention of trees will minimize the visual impact of the new building;
- On levels 1 and 2, Windows on the western edge within the new learning centre have been orientated to not provide direct views towards adjoining properties but rather have been orientated to take advantage of the northern light. Windows on level three of the building are orientated to the west, but given the

setback to the boundary of a minimum of 15.2m, will provide district views rather than opportunities to provide views into private open space areas of adjoining dwellings;

- The proposal does not present an attempt to attain additional development yield on the site given compliance with the FSR controls applying to the site.
- The non-compliance is partially a result of Lane Cove Council utilising the standard LEP template that replaced the former Special use zoning of the site with the low density R2 zoning that applies opposite the site. Prior to this LEP, a height control did not apply to the site;
- The variation will not have any adverse amenity impacts. In this regard, it is noted the variation will not lead to the undue reduction in solar penetration on site or to adjoining properties nor will it lead to excessive sunlight loss or overshadowing
- The proposal has been designed to ensure that privacy impacts are mitigated that the proposal will not obstruct identified view corridors with appropriate side setbacks provided to promote view sharing opportunities
- Detailed shadow analysis demonstrates that properties to the west still achieves adequate solar access to open space and living areas with this development not unacceptably increasing overshadowing.
- The non-compliance to the height control has no unacceptable impact on the setting of any items of environmental heritage or identified view corridors;

The unique circumstances of the case that warrant support of the departure are:

- The need to provide appropriate floor to ceiling heights within the development whilst providing accessible entries to all rooms which is preferable to only having stair access which would compromise amenity and useability for future users; and
- The desire to maximise open space on the site to benefit existing and future students.

As outlined above the proposal remains consistent with the underlying objectives of the control and as such compliance is considered unnecessary or unreasonable in the circumstances. The above discussion demonstrates that there are sufficient environmental planning grounds to justify the departure from the control.

#### Clause 4.6(4)

In accordance with the provisions of Clause 4.6(4) Council can be satisfied that this written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3). As addressed the proposed development is in the public interest as it remains consistent with the objectives of the building height control. In addition, the proposal is consistent with the objectives of the R2 zone, being:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To retain, and where appropriate improve, the existing residential amenity of a detached single family dwelling area.*
- *To encourage new dwelling houses or extensions of existing dwelling houses that are not highly visible when viewed from the Lane Cove River or Parramatta River.*
- *To ensure that landscaping is maintained and enhanced as a major element in the residential environment.*

The proposal ensures that the low density nature of the zone is retained and there is not a significant change to the character of the locality. In addition, the proposal complements and enhances the local streetscape by virtue of the careful siting of the development and the landscape embellishment works within the site.

It is understood that the concurrence of the Director-General can be assumed in the current circumstances.

#### Clause 4.6(5)

As addressed it is understood the concurrence of the Director-General may be assumed in this circumstance, however the following points are made in relation to this clause:

- a) The contravention of the maximum height control does not raise any matter of significance for State or regional environmental planning given the nature of the development proposal and minor nature of the variation;

- b) There is no public benefit in maintaining the development standard as it relates to the current proposal as the proposal is consistent with the underlying objectives of the control and the fact that the minor non-compliance does not lead to excessive bulk and scale and it will not set an undesirable precedent for future development within the locality based on the observed building forms in the locality and based on the unique site attributes.

Strict compliance with the prescriptive building height requirement is unreasonable and unnecessary in the context of the proposal and its particular circumstances.

The proposed development meets the underlying intent of the control and is a compatible form of development that does not result in unreasonable environmental amenity impacts.

The proposal will not have any adverse effect on the surrounding locality, which will be characterised by residential development of comparable height and character. The proposal promotes the economic use and development of the land consistent with its zone and purpose. Council is requested to invoke its powers under Clause 4.6 to permit the variation proposed.

The objection is well founded and taking into account the absence of adverse environmental, social or economic impacts, it is requested that Council and the Sydney North Planning Panel support the development proposal.