

SYDNEY CENTRAL CITY PLANNING PANEL

Panel Reference Number	2018SYW013
DA Number	DA 2017/509
Local Government Area	Cumberland
Proposed Development	Demolition of three existing buildings; alterations and additions to the existing administration building; alterations to the existing library building to create a new classroom; construction of a new three storey building accommodating 13 classrooms and wall signage within an existing educational establishment (Pendle Hill Public School)
Street Address	27 Pendle Way Pendle Hill
Applicant/Owner	NSW Department of Education c/- Blue Visions Management
Number of Submissions	Nil
Regional Development Criteria	Crown Development with Capital Investment Value >\$5 million
List of all Relevant Section 4.15(1)(a) Matters	<ul style="list-style-type: none"> • State Environmental Planning Policy No. 55 – Remediation of Land • State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 • State Environmental Planning Policy No 64 – Advertising and Signage • State Regional Environmental Plan (Sydney Harbour Catchment) 2005 • Holroyd Local Environmental Plan 2013 (HLEP 2013) • Holroyd Development Control Plan 2013 (HDCP 2013)
Recommendation	Approval, subject to conditions
Report by	Sarah Pritchard, Senior Development Planner
Meeting date	12 July 2018



Figure 1 – Perspective of proposed development at Pendle Hill Public School (Source: Conrad Gargett Anchor Mortlock Woolley 2017)

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ATTACHMENTS

- Attachment 1 – Architectural Plans
- Attachment 2 – Draft determination
- Attachment 6 – Clause 4.6 request

1 Executive Summary

- 1.1 This development application proposes alterations and additions to the existing administration building, alterations and repurposing of the existing library building and a new three storey building accommodating 13 classrooms within the existing Pendle Hill Public School. A copy of the architectural plans is provided as **Attachment 1** to this report.
- 1.2 The development, proposed by the Crown and with a capital investment value of more than 5 million dollars, requires referral to the Sydney Central City Planning Panel (the Panel). While Council is responsible for the assessment of the DA, the Panel is the consent authority.
- 1.3 This report summarises the key issues associated with the Development Application (DA) and provides an assessment of the relevant matters for consideration in accordance with the Environmental Planning and Assessment Act 1979, State Environmental Planning Policy (Educational Establishments and Child Care Centres) 2017 (SEPP Education), State Environmental Planning Policy No 55 – Remediation of Land, State Environmental Planning Policy No 64 – Advertising and Signage, Holroyd Local Environmental Plan 2013 (HLEP 2013) and Holroyd Development Control Plan 2013 (HDCP 2013).
- 1.4 The application was publicly notified for 21 days from 13 December 2017 to 17 January, 2018. Due to an administrative error in the original notification, the application was renotified from 4 April to 25 April 2018. No public submissions were received as a result of the notification.
- 1.5 Schools are a prohibited land use within the R2 – Low Density Residential zone pursuant to HLEP 2013. However, the works are permitted with consent pursuant to clause 35 of the SEPP Education.
- 1.6 The subject site has a total area of 3202 m² and currently caters for 324 students and 26 staff.
- 1.7 The proposal will provide for a net increase of fourteen (14) classrooms, catering for 251 additional students. This will result in a total capacity of 575 students and 36 staff for the school.
- 1.8 The proposal involves approximately 145 m² extension to the admin building and 1949 m² for the proposed building. This results in an FSR of 0.275:1 for the site which complies with the 0.5:1 maximum.
- 1.9 The proposal involves a non-compliance with the 9 m maximum height standard applying to the subject site. The application was accompanied by a written request to vary the standard pursuant to clause 4.6 of HLEP 2013. The request to vary the height standard is well founded and addresses the relevant statutory requirements.
- 1.10 The application was deferred 16 March 2018 due to the inadequacy and inconsistency of the information provided.
- 1.11 The application was referred to NSW Roads and Maritime Services (RMS) for comments as the proposal constitutes traffic-generating development pursuant to clause 57 of the SEPP Education. RMS advised that they have no objection to the proposal and did not recommend any conditions.
- 1.12 The proposed alterations to the existing school campus are considered to have acceptable impacts on the surrounding residential zoned land.

- 1.13 The proposal is considered satisfactory with regard to key issues such as design and siting, bulk and scale, traffic impacts, parking, noise generation and control, site contamination, stormwater drainage and social and economic impacts. The proposed development has been assessed against the relevant matters for consideration pursuant to section 4.15 of the Environmental Planning and Assessment Act 1979 including the suitability of the site for the development and the public interest, and is considered satisfactory subject to the imposition of appropriate conditions.
- 1.14 In light of the above, it is recommended that the Panel approve the DA. Recommended conditions are provided at **attachment 2** to this Report.

2 Site and Context

- 2.1 The site is located at 27 Pendle Way, Pendle Hill and has a total area of 3202m². The legal descriptions of the component land parcels are as follows:
- Lot 1 DP 983604
 - Lot B DP 339083
 - Lot 2 DP 122493
 - Lots 66-70 Section 7A DP 963
 - Lots 42-52 Section 7A DP 963
 - Lot 62-71 Section 6A DP 963
 - Lot 1 DP 122494
 - Lot 1 DP 440881
 - Lot 1 DP 395923
 - Lot 1 DP 122493
- 2.2 The main pedestrian entrance to the school is on Pendle Way. However, the site also has frontage to Smith Street, Arnett Street and Frederick Street. The site is illustrated in Figure 2 below, outlined in red:

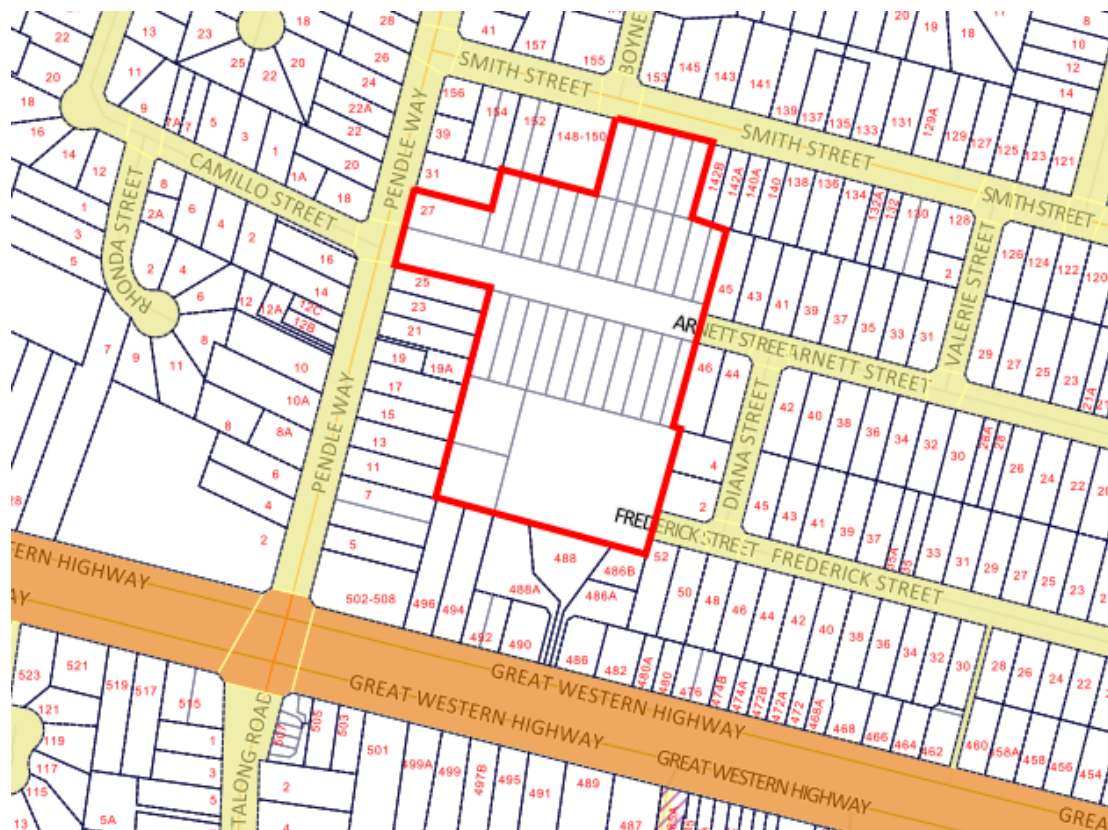


Figure 2 – Location Map (Source: Cumberland Council, 2018)

- 2.3 The site falls gently towards the south eastern corner. The existing improvements on site include 15 buildings of various ages and architectural styles, as well as outdoor play structures associated with the school. There are also a number of established trees on site.
- 2.4 The subject site and most of the surrounding land is zoned R2 – Low Density Residential pursuant to HLEP 2013. There is a parcel of B6 – Enterprise Corridor zoned land to the south west as shown in Figure 3 below.



Figure 3 – Zoning Map (Source: Cumberland Council, 2018)



Figure 4 – Aerial Photo of Site and Surrounds (Source: Cumberland Council, 2018)

3 Background

3.1 The Pendle Hill Public School has been subject to a number of development applications and approvals over recent years as follows;

- On 22 August 2012, approval was granted by Holroyd City Council for a new single storey detached building within the grounds of the existing school to provide out of hours child care for 75 children (DA 2012/117).
- On 16 July 2009, a complying development certificate was issued for a communal hall and covered outdoor learning area (City Plan Services).
- Two single storey demountable classrooms were installed as exempt development in January 2015.
- On 3 September 2003, Council issued development consent no 2003/957 for the addition of an accessible bathroom/toilet within the school grounds.
- On 13 June 2002, Council issued development consent no 2002/170 for erection of a new library.

4 The Proposal

4.1 The proposal involves the following physical works:

- Demolition of three existing buildings (B-00F, B-00G, and B-00H).
- Alterations and additions to the existing administration building (B-00B).
- Removal of 11 established trees.
- Construction of a new three storey classroom building;
 - Lower Ground floor – library, office, store, amenities and outdoor learning
 - Ground floor – 7 classrooms, practical activities area and amenities
 - Level 1 – 6 classrooms, practical activities area, common learning area, withdrawal rooms
 - Identification signage on the eastern elevation (facing Arnett Street)
- Landscaping works.
- Modifications to the existing library building (B-00C) to create a new classroom.

According to the applicant, the proposed works will result in a total capacity of 575 students and 36 staff at the school.

5 Planning Controls

5.1 The planning controls that relate to the proposed development are as follows:

a. State Environmental Planning Policy No 55 – Remediation of Land

SEPP 55 aims to provide a state wide planning approach to the remediation of contaminated land. The SEPP requires the consent authority to consider whether a site may be contaminated in the assessment of any development application.

A contamination assessment and preliminary waste classification prepared by Douglas Partners Pty Ltd was submitted with the application. The report

concludes that there are potential sources of contamination on site and recommends that an unexpected finds protocol be implemented.

Appropriate conditions of consent are included in the draft determination to ensure that the unexpected finds protocol is implemented during the works and that Council is notified of any new information that comes to light regarding contamination of the site.

b. State Environmental Planning Policy (Educational Establishments and Child Care Centres) 2017

Clause 35 of the *State Environmental Planning Policy (Educational Establishments and Child Care Centres) 2017* (SEPP Education) provides that development for the purpose of a school may be carried out by any person with development consent on land in a *prescribed zone*. Pursuant to clause 33, the R2 Low Density Residential zone is identified as a *prescribed zone*. Accordingly, the proposed development is permitted with consent on the subject site.

A detailed assessment against the provisions of the SEPP Education is available on Council's file.

The application was referred to NSW Roads and Maritime Services pursuant to clause 57 of the SEPP Education. The comments from RMS are outlined in section 7 of this report.

c. State Regional Environmental Plan (Sydney Harbour Catchment) 2005

The subject site is within the boundary of the Sydney Harbour Catchment as defined in the SREP. However, there are no provisions in the SREP that are relevant to the assessment of this application.

d. Holroyd Local Environmental Plan (HLEP) 2013

HLEP 2013 applies to the site. The development is generally consistent with the provisions of the LEP, with the exception of the building height, which exceeds the maximum permitted 9 m standard that applies to the subject site. This issue is discussed in detail at section 6 of this report.

A detailed assessment against the provisions of the HLEP is available on Council's file.

e. Holroyd Development Control Plan (HDCP) 2013

HDCP 2013 applies to the site. The development does not comply with the minimum parking requirements under Part A but is otherwise generally consistent with the provisions of the DCP.

A detailed assessment against the provisions of the HDCP 2013 is available on Council's file.

6 Key Issues

6.1 Variations to HLEP 2013 development standards

The proposed development is generally consistent with the requirements of the LEP, with the exception of the permissibility of the land use, and the non-compliance with the height standard.

The permissibility of the land use does not require further assessment as the proposal is permitted with consent pursuant to clause 35 of the SEPP Education.

The applicant submitted a written request to vary the height standard pursuant to clause 4.6 of the LEP.

The maximum height of buildings standard applying to the subject site is 9 m, and the proposal has a height of 11.6 m which is 2.6 m greater than the permitted maximum. The environmental impacts of the non-compliance have been assessed and are considered satisfactory. The applicant's written request to vary the standard pursuant to clause 4.6 of HLEP 2013 adequately addresses the relevant statutory requirements and demonstrates that compliance with the standard would be unreasonable and unnecessary in the circumstances. The applicant's written request reads in part:

Strict compliance is unnecessary and sufficient planning justification is provided to support the variation, including:

- The building will not cause any overshadowing impacts on open space, playground areas or public or private spaces; and*
- The architectural design adds to the streetscape and amenity of the school and neighbourhood*

The proposal is consistent with the objectives of the height standard and has no adverse impacts on neighbouring properties or on the streetscape. According to the applicant, the proposed development results in an FSR of 0.275:1 which is significantly less than the maximum 0.5:1 permitted for the subject site. Accommodating the required amount of teaching space whilst complying with the height standard would result in greater site coverage, and reduction in landscaped area which is not desirable in the circumstances where the height does not result in any adverse impacts on adjoining properties. It is considered that there are sufficient environmental planning grounds to justify a contravention of the standard in this case.

6.2 Variations to HDCP 2013 development controls

a. Car parking

The existing school does not comply with the minimum car parking requirements under Part A of HDCP 2013, and the proposed works will exacerbate the non-compliance.

The DCP requires a minimum of one space per staff member, and 1 space per 100 students. According to the applicant, the proposed modifications result in a total capacity of 575 students and 36 staff at the school. This requires a minimum of 36 staff spaces plus 5.75 (6) spaces for visitors, or a total of 42 spaces. The plans submitted by the applicant show 22 off street spaces, resulting in a deficiency of 20 spaces.

However, the subject development in itself only generates net additional demand for 13 parking spaces (10 staff + 2.51 visitors).

There is limited capacity to provide additional off street parking on the site and no additional parking is proposed as part of this application.

The proposal can be supported despite the non-compliance with the DCP parking rate as:

- The Department of Education has identified that there is demand for additional school facilities in the area, and this development will satisfy some of that demand;
- The shortfall in parking is largely attributable to the existing developments on site with 13 additional spaces required as a result of the proposal;
- The site is located within an area that is predominantly zoned low-density residential. As such there will be limited competition for on-street parking during the day as residents will generally be away from their residences during the times when the school is open;
- The site is reasonably well serviced by public transport with Pendle Hill Train Station and a number of bus stops in walking distance of the school.

6.3 Environmental Management - Salinity

The Salinity Potential in Western Sydney map prepared by the former DIPNR, indicates the Site and the Pendle Hill area generally is within a region of moderate salinity potential. Standard conditions of consent are included in the draft determination at attachment 2, requiring that the detailed design of the development incorporate measures to mitigate the impacts of salinity on the development.

6.4 Traffic Generation

Alterations to the existing school facility constitute traffic-generating development for the purposes of the SEPP Education (clause 57). That is, the development is for the purpose of an existing educational establishment with direct vehicular and pedestrian access to any road, and will result in the educational establishment being able to accommodate 50 or more additional students.

The application was referred to RMS under clause 57 of SEPP Education. RMS advised that the proposal is satisfactory and did not provide any recommended conditions.

6.5 Visual Presentation, Built form

The proposed buildings will have acceptable visual presentation to the surrounding properties, and the public domain. Furthermore, the proposed developments will not result in any adverse impacts on neighbouring properties in terms of visual privacy or overshadowing, despite the non-compliance with the height standard.

6.6 Noise

The school has the potential to generate a range of noise impacts on nearby residential properties, and is potentially affected by traffic noise from Pendle Way and the Great Western Highway.

The application was accompanied by an Acoustic Report prepared by Wood & Grieve Engineers (project number 33719-SYD-N, dated 8 August 2017). The report considers the noise impacts of the proposal on the nearest residential receivers, concluding that the increase in impact from the additional students will be less than 3dB, which is considered barely audible. The report also concludes that the windows of the new building can be used for natural ventilation, whilst complying with the DoP Interim Guideline for maximum recommended internal noise levels for educational institutions.

The report was reviewed by Council's Environmental Health Officer and is considered satisfactory subject to consent conditions. The EHO's recommended conditions are included in the draft determination at attachment 2.

6.7 Natural Environment

The proposal was reviewed by Council's Landscape & Tree Management section and is considered to have satisfactory impacts on the natural environment. Conditions of consent have been included in the draft determination to ensure that trees to be retained on site are appropriately protected during the works.

Accordingly, the proposed development is considered to be satisfactory with regard to its impacts on the natural environment.

6.8 Built Environment

As discussed elsewhere in this report, the proposed development will have satisfactory impacts on the built environment and is acceptable in its context in terms of its streetscape presentation, bulk and scale.

6.9 Waste Management

The application was reviewed by Council's Waste Management section and is considered satisfactory subject to conditions.

6.10 Social and Economic Impacts

The proposal will have acceptable social and economic impacts in the locality.

7 External Referrals

- 7.1 The subject Development Application was referred to the following external agencies as summarised in the table below.

Referral Agency	Comment
Roads and Maritime Services	The application was referred to RMS under clause 57 of the SEPP Education. RMS advised that they have no objection to the proposal and did not recommend any conditions.

8 Internal Referrals

- 8.1 The subject application was referred to the following internal sections of Council as summarised in the table below:

Referral	Comment
Development Engineering	The proposed stormwater drainage system complies with the relevant provisions of HDCP 2013 and Council's On-site Stormwater Detention policy. As such, the application can be approved subject to standard consent conditions.
Landscaping & Tree Management	The proposed works will provide adequate protection to existing trees to be retained on site. Proposed landscaping will enhance the

Referral	Comment
	amenity of the subject site. As such, the application can be approved subject to conditions.
Traffic Engineering	<p>Council's Traffic Engineer advised that inadequate details have been provided regarding the on-site parking arrangements to demonstrate compliance with the Australian Standard. The Engineer requested that off street parking to be provided in accordance with the minimum requirements of HDCP 2013.</p> <p>Conditions have been included in the draft determination requiring parking spaces and manoeuvring areas to comply with the relevant Australian Standard. As discussed elsewhere in this report, the proposal is considered supportable despite the non-compliance with the DCP parking rate.</p>
Environmental Health Unit	The proposed development is satisfactory subject to implementation of the recommendation of the acoustic assessment report, asbestos management plan and erosion and sediment control plan submitted with the application. As such, the application can be approved subject to conditions.
Waste Management	The proposed waste management arrangements are satisfactory. No recommended conditions.
Building Services	The proposal is satisfactory subject to standard conditions.

9 Public Comment

- 9.1 In accordance with the requirements of Part E - HDCP 2013, a sign was placed on the site, the proposal was advertised in the local newspaper and was notified to the owners and occupiers of surrounding sites for a period of 21 days from the 18 October 2017 to 8 November 2017. The application was renotified from 4 to 25 April 2018 due to an administrative error in the original notification. As a result of the notification, no submissions were received.

10 Section 4.15 Consideration

- 10.1 Consideration of the matters prescribed by section 4.15 of the Environmental Planning and Assessment Act is summarised below:

Head of Consideration	Comment	Comply
a. the provisions of:		
(i) any environmental planning instrument (EPI)	The provisions of relevant EPIs and DCPs relating to the proposed development are summarised in Section 5 of this Report and variations to the relevant standards and controls have been satisfactorily addressed in Section 6.	Yes
(ii) any draft environmental planning instrument (EPI)	Not applicable	

Head of Consideration	Comment	Comply
(iii) any development control plan (iiia) any planning agreement (iv) the regulations	The proposal is generally consistent with the provisions of the DCP There are no existing or proposed planning agreements that relate to the DA. The regulations do not prescribe any relevant matters for consideration.	
b. the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality	An assessment of key issues relating to the proposed development is provided in Section 6 of this report. It is considered that the likely impacts of the development in the locality are acceptable.	Yes
c. the suitability of the site for the development	The proposed development will expand the capacity of the existing school which already operates at the subject site. The site is considered suitable for the proposed development.	Yes
d. any submissions made in accordance with this Act or the regulations	The DA was notified in accordance with HDCP 2013. No submissions were received as a result of the notification.	N/A
e. the public interest	The public interest is served by facilitating the orderly and economic use of land in a manner that is sensitive to the surrounding environment and has regard to the reasonable amenity expectations of surrounding land users. In light of the foregoing analysis, it is considered that approval of the proposed development would not be contrary to the public interest.	Yes

11 Section 4.33 – Determination of Crown development applications

- 11.1 The application was made on behalf of the Department of Education and as such is properly characterised as a 'Crown development application' pursuant to section 4.32 of the Environmental Planning & Assessment Act.
- 11.2 Draft conditions were sent to the applicant for review and reply correspondence dated 22 June 2018 indicates that there is in principle agreement on the conditions. However, conditions 21, 22 and 75 in the draft determination are currently in dispute and have not been agreed to by the applicant.

12 Conclusion

- 12.1 The proposed development has been assessed against the matters for consideration listed in section 4.15 of the EP & A Act 1979 and is considered to be satisfactory. The site is suitable for the proposed development, the likely impacts of the development have been satisfactorily addressed and the proposal is not contrary to the public interest.
- 12.2 The proposal is considered to provide for an appropriate built form presentation to Smith and Arnett Street.
- 12.3 The provision of off street parking is considered satisfactory to support the development despite the non-compliance with the DCP parking rate.
- 12.4 The application was referred to a number of internal sections of Council, and to RMS. Most of the referrals advised that the proposal is satisfactory subject to conditions. The concerns of Council's Traffic Engineers have been discussed above and do not warrant refusal of the application.
- 12.5 The operation of the school facility is considered to create an acceptable amenity impacts on the surrounding residential developments.

13 Recommendation

- 13.1 The development application be approved by the Sydney Central City Planning Panel subject to the conditions provided at **Attachment 2**.