

SYDNEY SOUTH PLANNING PANEL - ASSESSMENT REPORT

Panel Reference	2019SSH008
DA Number	41/2019
LGA	Canterbury Bankstown Council
Proposed Development	Re-development of Canterbury South Public School including minor demolition works to landscape areas/hardstand areas and construction of a three-storey school with a capacity of 690 students and associated landscape works and realignment of car parking along Napier Street.
Street Address	10 – 20 High Street, Canterbury
Applicant/Owner	School Infrastructure NSW C/- DFP Planning, Owner: Department of Education
Date of DA lodgement	26 February 2019
Number of Submissions	Thirty-two (32) Submissions and two (2) petitions
Recommendation	Refusal
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Part 4, Clause 20(1) of the SEPP (State and Regional Development) 2011 the application is declared as regionally significant development. Schedule 7 includes 'Crown development over \$5 million'. The proposed capital investment value of \$17,401,00.00 and falls within this category.
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 • State Environmental Planning Policy 64 Advertising and Signage • State Environmental Planning Policy 55 – Remediation of Land • State Environmental Planning Policy 19 – Bushland in Urban Areas • State Environmental Planning Policy (Coastal Management) 2018 • Canterbury Local Environmental Plan 2012 • Canterbury Development Control Plan 2012 • Canterbury Development Contributions Plan 2013 (Contributions Plan 2013)
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Architectural plans • SEE including Clause 4.6's • Landscape Plan; • Architectural Design Statement • Green Travel Plan; • Traffic Impact Statement; • Stage 2 contamination report; • Remediation Action Plan; • Acoustic Report; • Asbestos Clearance Certificate • Biodiversity Constraints Assessment Report
Clause 4.6 requests	<ul style="list-style-type: none"> • Canterbury Local Environmental Plan 2012 (CLEP 2012); • The Clause 4.6 relates to Clause 4.3 Height of Buildings of the CLEP 2012 and Clause 4.4 of the Floor Space Ratio; and • The subject site is in a part R3 Medium Density Residential, part R4 High Density Residential Zone and part RE1 Public Recreation Zone
Summary of key submissions	<ul style="list-style-type: none"> • Traffic and insufficient studies being undertaken; • Existing traffic safety issues around the school will be exacerbated – one child was hit by a car late 2018; • 5 minute parking is not realistic for drop off and pick up;

	<ul style="list-style-type: none"> • Lack of off-street parking; • Residents of Napier Street can no longer park outside their houses if proposal goes ahead; • Traffic and parking shortcomings indicate this is an overdevelopment; • Construction Management and safety of students and access to outdoor play areas during construction stages; and • Removal of trees.
Report prepared by	Haroula Michael – Acting Executive Planner
Report date	25 June 2020

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

Clause 4.6 Exceptions to development standards

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

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?
Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions **Not Applicable**

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 REPORT

This matter is reported to the Sydney South Planning Panel as the development application is for Crown Development that exceeds a capital investment value of \$5 million in accordance with Schedule 7(4) of State Environmental Planning Policy (State and Regional Development) 2011.

Development Application No. DA-41/2019 includes the following:

- Minor demolition works to landscape areas/hardstand areas and construction of a 3 storey school building on the southern side of the site to provide for 30 homebases (classrooms);
- Landscape works to create a central “Town Square” (central courtyard);
- Playground area;
- Re-arrangement of on-street parking on Napier Street, including changing from parallel to 90 degree parking along the school frontage, which will provide for a total of 40 parking spaces; and
- Increase student population from 287 to 690 students and staff from 26 to 58 staff.

Other components of the subject school re-development project are being undertaken under the Exempt Development and/or Complying Development provisions of State Environmental Planning Policy (Educational Establishments and Child care Facilities) 2017 (the Education SEPP). These works are outlined below:

- Demolition of existing school buildings;
 - Installation of 11 temporary demountable classrooms to accommodate students during construction work of the redevelopment of the school site. Classrooms will be removed upon the completion of works;
 - Construction of a Canteen, Block A (administration and library) and Block B (multi-purpose hall); and
 - General earthworks associated with the above.
- The application been assessed against the relevant provisions of State Environmental Planning Policy SEPP (Educational Establishments and Child Care Facilities) 2017, SEPP 64 Advertising and Signage, SEPP 55 – Remediation of Land, SEPP 19 – Bushland in Urban Areas, State Environmental Planning Policy (Coastal Management) 2018, Canterbury LEP 2012 and Canterbury DCP 2012.

The key issues that need to be considered by the Sydney South Planning Panel (Panel) are:

- The Clause 4.6 Request to Vary a Development Standard relating to the height of buildings and floor space ratio under the Canterbury Local Environmental Plan 2012;
- Traffic and car parking deficiencies;
- Insufficient information to determine compliance with SEPP 55 and acoustic impacts;
- Height, scale and bulk of the proposed building;
- Insufficient information to make a full assessment against the Biodiversity Conservation Act 2016.

The application was neighbour notified and advertised in the newspaper consistent with the provisions contained in the Canterbury Development Control Plan 2012. A total of 32 submissions and 2 petitions were received. The submissions are discussed in detail further within the assessment report.

POLICY IMPACT

This matter has no direct policy implications.

FINANCIAL IMPACT

This matter has no direct financial implications.

RECOMMENDATION

It is recommended that the Panel support Council's recommendation to refuse the application based on the reasons stated within the recommendations of this report.

As a consent authority, in this instance the Sydney South Planning Panel must not refuse consent to 'Crown Development', except with the approval of the Minister for Planning and Public Spaces Therefore, it is recommended that the application be referred to the Minister for Planning and Public Spaces with a recommendation for refusal as per the requirement under Section 4.33 of the Environmental Planning and Assessment Act, 1979.

SITE & LOCALITY DESCRIPTION

Canterbury South Public School (CSPS) is located in Canterbury, in the Canterbury Bankstown Local Government Area. The school is located 950m south west of the Canterbury Railway Station and town centre and approximately 400m south of the Cooks River.

A site location plan is included at Figure 1, which shows the site in relation to the surrounding local area and surrounding road and rail network. The school is located in a residential area and is bounded by High Street to the west, France Street to the north and Napier Street to the south. To the east is an open space area known as Pat O'Connor Reserve. Part of Pat O'Connor Reserve is on land owned by the Minister for Education and is used as a play space by the school.

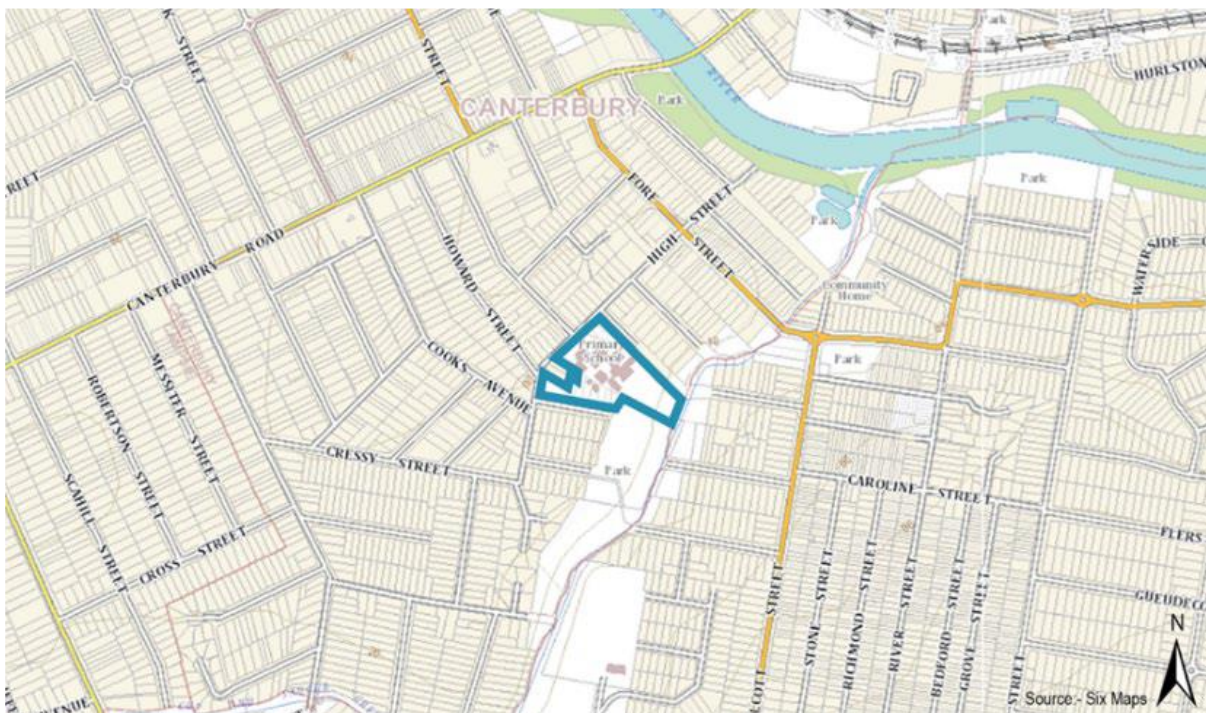


Figure 1 Site Location Plan (source SEE)

The school site is legally described as Lot 1 in Deposited Plan (DP) 1246001. The school has three (3) street frontages, with France Street to the north-east, High Street to the north-west, and Napier Street to the south.



Figure 2 Aerial image (Source SEE)

The site is 1.802 hectares in area. The site is not identified as containing an item of environmental heritage nor does it comprise critical habitat and it is not bushfire prone land.

The site has a sloping topography and generally falls from the north to the south/ south east, with a steeper slope to the east at Pat O'Connor Reserve. The overall fall within the fenced school area (excluding Pat O'Connor Reserve) is approximately 4.5 metres. There are level changes through the site with several ramps providing equitable access to buildings and outdoor areas. Level areas are found within the school around sports courts, COLAs (covered outdoor learning areas) and open play areas.

There are currently 287 students enrolled at the school and 26 staff. Classes begin at 9.15am and finish at 3.15pm. The Canterbury South Out of School Hours Centre is open for After School Care from 3.15pm to 6.00pm. Before school care is not currently available and is not proposed as part of this application.

The existing school has 11 buildings (including 1 demountable) and the facilities comprise:

- 12 classrooms;
- School hall;
- Canteen;
- Library;
- Offices and staff administration;
- 2 x COLAs;
- Sports court; and
- Play areas including raised decking and mature trees located in the northern corners of the site.

The majority of the school buildings were constructed during the mid-1970s, with the one newer classroom and COLA built approximately 8 years ago. Building J (administration

building) was constructed in the 1930s and was renovated in the 1970s. None of the buildings are heritage listed.

A staff car parking area is provided off France Street. School deliveries and waste collection also occur via France Street.

The school has a shared play space with the adjacent Pat O'Connor Reserve to the south-east. Part of the reserve is on land owned by the Minister for Education and is used by the students during school times including for play during recess and lunchtime.

The surrounding land uses are predominantly residential uses. To the north east (France Street) is medium-high density residential development consisting the rear of apartment buildings and town houses which have a frontage to Rome Street. The North West to south west areas are low density residential uses that comprise one and two storey residential single dwellings.

The school adjoins two residential properties being Nos.22 and 24 High Street.

To the east of the site is Pat O'Connor Reserve, a local park that generally follows Cup and Saucer Creek, running in a north-south direction and ultimately feeding into Cooks River.

PROPOSED DEVELOPMENT

DA-41/2019 seeks approval for the following:

- Minor demolition works to landscape areas/hardstand areas and construction of a 3 storey school building on the southern side of the site to provide for 30 homebases (classrooms);
- Landscape works to create a central "Town Square" (central courtyard);
- Playground area;
- Re-arrangement of on-street parking on Napier Street, including changing from parallel to 90 degree parking along the school frontage, which will provide for a total of 40 parking spaces; and
- Increase student population from 287 to 690 students and staff from 26 to 58 staff.

The other scope of the overall works will be undertaken via the Exempt Development and/or Complying Development provisions of State Environmental Planning Policy (Educational Establishments and Child care Facilities) 2017 (the Education SEPP) (refer to Figure 3).

To this end and under Complying Development Certificate Number 17199CDC01 (prepared by Metro Building Consultancy Pty Ltd dated 7 March 2019 and received by CBCity 12 March 2019) the applicant has gained Approval for the following works:

- Demolition of existing school buildings;
- Installation of 11 temporary demountable classrooms to accommodate students during construction work of the redevelopment of the school site. Classrooms will be removed upon the completion of works;
- Construction of a Canteen, Block A (administration and library) and Block B (multi-purpose hall); and
- General earthworks associated with the above.

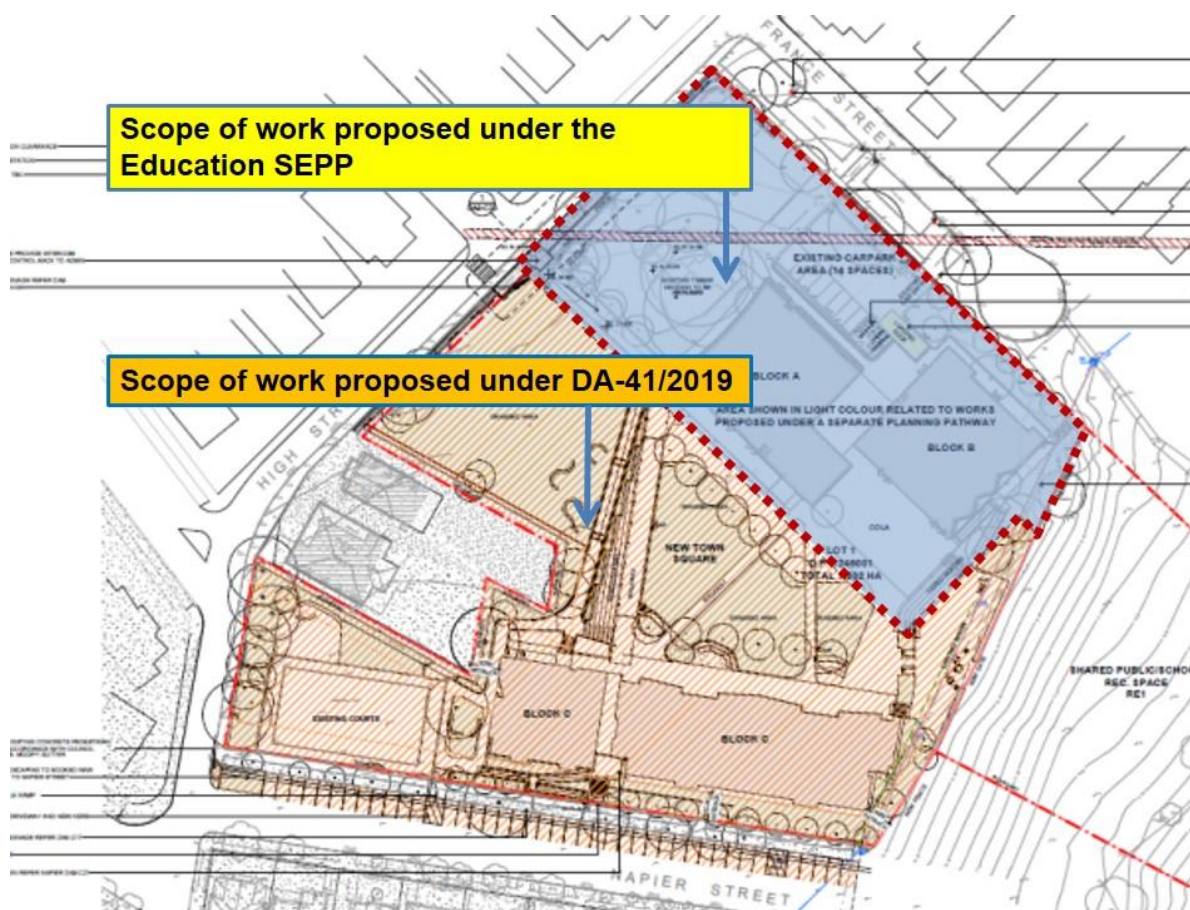


Figure 3:

BACKGROUND

Council initially provided feedback about the subject project when it came to us as a *Secretary's Environmental Assessment Requirements (SEARS)* referral, on **4 June 2018**. Council, among other matters, raised the issue of traffic and parking as follows:

The proposal is for the redevelopment and expansion of the Canterbury South Public School with the construction of new school buildings and demolition of other buildings on the site. It is proposed to increase student numbers from the current 287 to 690.

This represents a significant development of the site with an increase in student numbers of nearly two and a half times the current student counts. This would also require a significant increase in staff numbers. It appears from the information provided that there is no proposal to increase staff parking within the site or to provide for the significantly increased traffic generated on the surrounding streets.

The combination of the above will see a substantial increase in traffic volumes accessing the site, related congestion and the additional on-street parking that will be occurring due to the insufficient parking provision for staff and parents/carers.

High Street experiences traffic congestion during the morning and afternoon school times as a result of the volume of traffic, use of the pedestrian crossing and the restricted width of the street. The information provided indicates that High Street width is enough to allow for two way traffic flow and street parking on one side. This is clearly incorrect as a 6m wide pavement would only provide for two lanes 3m in width. Any parking that occurs along the length of High Street would reduce the road to one traffic lane at that location.

Coupled with this is that France Street and Napier Street are short cul-de-sacs which are used for student drop-off/pick-up. This means that every vehicle undertaking this manoeuvre must travel in and out of the street, creating further congestion at the intersections with High Street.

Council has received a petition from residents of the area particularly noting the traffic congestion that occurs at the present time and expressing concern that the local road network will not be able to cope with the substantial increase in traffic.

It is considered that the Traffic Report be prepared as part of the SEARs and should identify how this additional traffic can be managed so as to minimise impacts on the residents and the road network (attached to this response). It should also seriously consider additional parking and set-down/pick-up facilities as part of this work.

Potential measures to be investigated/assessed could include:

- The provision of parking bays on High Street along the frontage of the school. These parking bays could also be used as bus bays for student excursions. At the present time there is no suitable location for buses to pull up on High Street however, this is the only location where this could occur. When it does occur, there is a significant impact on traffic flow.*
- The provision of additional staff car parking to cater for the staff that will be employed on the site to remove the need for staff to park in the surrounding streets.*
- Consideration for the provision of a connecting road between the ends of Napier Street and France Street, to provide a one-way northbound traffic flow with drop-off/pick-up bays. The configuration of the access street would be a single traffic lane, a parking lane and a concrete footpath area to provide an all-weather set down area. This would reduce the need for all vehicles to effectively operate twice along these streets while entering and exiting from High Street. This access road could be gated so that it only operates during the start and finish times for the school, when traffic is at its peak, and allow students ready access to the reserve beyond during recess and lunch breaks.*
- An assessment of the operation of the intersection of High Street and Fore Street should be included in the traffic investigations, to identify the impacts at this intersection and potential improvements as a result of the increased traffic generated by the school.*
- A comprehensive review of pedestrian access to and from the school from the surrounding area, to ascertain if the existing pedestrian crossing is suitable, or if additional crossings are required.*

Furthermore, resolutions of the Council exist to ensure local road widening in the area, this should be investigated further as part of any re-consideration of the traffic and parking impacts of the development.

In conclusion, the consideration of the traffic and parking impacts of this proposal will be significant and will require a comprehensive investigation and identification of mitigation measures to minimise potential impacts on local residents and the surrounding road network.

The application did not proceed as State Significant Infrastructure, rather, a Complying Development Certificate was sought for Blocks A and B and the subject development application was lodged with Council for Block C and associated play areas of the development, together with proposed changes to on-street car parking along Napier Street which was the applicant's proposed solution to traffic and parking related concerns raised by Council.

To progress the issue of traffic and car parking, traffic comments were relayed to the applicant on 21 May 2019 and subsequently a meeting was held on 27 May 2019 to discuss the matters raised. The applicant stated that the link road/laneway option was not pursued due to the levels of the site and design issues associated with access to the RE 1 zoned land by students. The deficiency of on-street car parking was also flagged as an issue.

Following the meeting Council's Team Leader – Design worked on a scheme which would enable the link road and tested the resulting levels. The design shows that a retaining wall varying in height up to 1.6m would be required for a link road/driveway to be established, where a ramp and stair access can be provided. It is noted that a fence exists at present between the school at the RE 1 zoned land which links into the remainder of the Salt Pan Creek foreshore for safety and security and such an arrangement would continue with the re-developed school. As such, the level difference is not considered to be a hindrance to the successful operation of the school and use of the RE 1 zoned land, whilst the link road will have the advantage to providing a safer environment for traffic movement around the site at peak times. The design was sent to the applicant with specifications on 3 June 2019 (refer to Figure 4), along with a note that Council still considers the issue of car parking unresolved and the following:

...the maximum height of a retaining wall is approximately 1.6m for a small portion which then decreases to nil at some sections along with the following design parameters:

- *Minimum 1% longitudinal grade*
- *Minimum 2% crossfall*
- *Kerb only on school side*
- *Kerb and gutter on opposite side*
- *6.5m wide carriageway kerb to kerb*
- *1.5m footpath on school side*
- *Drainage of the internal road will need to be considered*
- *3.6m wide carriageway in the access lane from Napier Street*
- *0.6m allocation on park side of access connection for fence*
- *1.0m wide area to accommodate fence and clearance along 6.5m wide section*
- *Allowance for 3m wide platform at access point to reserve, with associated ramp.*
- *Retaining walls utilised on half of the road length, basically from access ramp to reserve back to Napier*
- *Minor fill/regrading in France to reduce requirement for retaining walls*
- *Sewer has sufficient cover to permit construction. The road requires excavating the existing ground by up to about 1m (at the point the road crosses the sewer behind Block B, still leaving 1.95m cover to the sewer*
- *It is possible to design this road with no longitudinal fall, and hence no cut above the sewer. This will increase the height of retaining walls and require further consideration of surface flows*
- *The proposal does not interfere with the block B or C*

Should this design be pursued, our engineers will look to widen the intersection of France Street and High Street to accommodate the traffic flow.



Figure 4: Suggested link road/laneway between France Street and Napier Street as prepared by Council's Engineers and forwarded to applicant on 3 June 2019.

The SSPP agreed with Council and the key issues discussed at the meeting held on the 18 June 2019 and the Panel's key issues are provided below:

KEY ISSUES DISCUSSED

- *impact of development on neighbours, particularly in relation to height and scale (eg privacy, over shadowing, identity, FSR exceedance)*
- *site circulation to address equitable access to all facilities*
- *Management of*
 - *parking generated by teaching and administrative staff of the school*
 - *vehicle movement on local streets to provide safety and acceptable residential amenity*
 - *set down/pickup capacity within this residential context including pedestrian safety*
 - *safe provision of bus facilities*
- *Need for definite advice that SEPP 55 will be satisfied*
- *Relevant provisions of the SEPP particularly the design quality principles and the capacity for sharing with the community*
- *If any draft conditions are contested full advice from the applicant on their reasons*

Following the electronic briefing to the Sydney South Planning Panel (SSPP) held on 18 June 2019. Council wrote to the Applicant on 29 July 2019 advising of the issues identified by Council and the SSPP comments.

After a series of e-mail and telephone discussions around the preparation of traffic related information, a meeting was held on 28 October 2019 to discuss design changes that were in progress which included removing elements from the roof of the building (Block C), and other design changes which were more centered around cost cutting and to discuss traffic issues based on the request for information letter of 29 July 2019.

Amended plans and documents were not lodged with Council for assessment.

On the 25 May 2020 a video conference was held between Council and representatives from SINSW where alternative solutions to the traffic and car parking issues were discussed such as limiting out of area enrolments, encouraging mode share, staggered start and finish times, the introduction of before school care in addition to the after school care, moving the bus stop to a closer location and encouraging travel behavior change as part of a Travel Access Guide for the school. Council outlined that although such an investment in public infrastructure is greatly welcomed in the area, without a failsafe solution to the traffic and parking issues in particular, that the application could not be supported.

On 11 June 2020 the applicant advised Council to proceed to determine the application in its current form. As such, the application is being reported to the Panel without any further information being formally submitted since the briefing.

Statutory Considerations

Biodiversity Conservation Act 2016

The purpose of the Biodiversity Conservation Act 2016 is to maintain a healthy, productive and resilient environment for the greatest wellbeing of the community, now and into the future, consistent with the principles of ecologically sustainable development.

The Applicant submitted a biodiversity constraints report dated May 2018 prepared by Travers bushfire and ecology for consideration with the development application.

The biodiversity constraints report was referred to Council's Team Leader Urban Policy and Planning for comment. The biodiversity constraints report submitted with the application cannot be supported in its current form as there is insufficient information to determine the impact area.

The following comments were made by Council's Team Leader Urban Policy and Planning:

1. *The Ecological Constraints Report does not have a map identifying the impact area and trees to be removed and/or retained. This needs to be updated and the clearance footprint needs to be calculated to identify if the area threshold for the Biodiversity Offset Scheme (0.25 ha) is triggered.*
2. *The Ecological Constraints Report states that there are two triggers for entry into the Biodiversity Offset Scheme (BOS). However, there are three triggers for entry into the BOS, the third being a significant impact on a threatened species, population or ecological community listed under the Biodiversity Conservation Act 2016. As there are threatened flora species recorded onsite, a test of significance must be completed for these species pursuant to section 7.3 of the Biodiversity Conservation Act 2016.*
3. *The Ecological Constraints Report states that 'no native vegetation occurs within the study site'. This does not accord with the species list (Table A1.1) and the statement should be reviewed accordingly.*

4. *The likelihood of occurrence table (Table A2.2) in the Ecological Constraints Report states that further consideration is required for the green and golden Bell Frog, Little Lorikeet, Swift Parrot, Grey-headed Flying-fox, Eastern Bentwing-bat and Large-footed Myotis. However, Tests of Significance have not been completed for these species pursuant to section 7.3 of the Biodiversity Conservation Act 2016.*

It should be noted that if the roadway is proposed to link Napier and France Streets this portion of the site would also need to be taken into consideration within the Biodiversity Report. Therefore, based on the above there is insufficient information provided to ensure the proposed development will not impact the threatened flor species and species listed in point 4 above as required by section 7.3 of the Biodiversity Conservation Act 2016.

When determining this application, the relevant matters listed in Section 4.15 of the Environmental Planning and Assessment Act 1979 must be considered. In this regard, the following environmental planning instruments, development control plans, codes and policies are relevant:

- State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017
- State Environmental Planning Policy 64 – Advertising Signage
- State Environmental Planning Policy 55 – Contaminated Land (SEPP 55)
- State Environmental Planning Policy 19 – Bushland in Urban Areas
- State Environmental Planning Policy (Coastal Management) 2018
- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Canterbury Development Control Plan 2012 (CDCP 2012)
- Canterbury Development Contributions Plan 2013

SECTION 4.15 ASSESSMENT

The proposed development has been assessed pursuant to section 4.15 of the *Environmental Planning and Assessment Act, 1979*.

Environmental planning instruments [section 4.15(1)(a)(i)]

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

Clause 3 – Aims of Policy

The aim of this Policy is to ‘facilitate the effective delivery of educational establishment across the State’ through the provision of a consolidated planning and design framework for such applications and ‘allowing for the efficient development, redevelopment or use of surplus government owned land’.

The aims of this Policy are achieved as this EPI takes precedence over Council’s controls by virtue of Clause 35 (9). Thus, this policy provides for a singular planning framework.

Clause 33 - Definition of “prescribed zone”

“Zone R3 Medium Density Residential” and “Zone R4 High Density Residential” are a prescribed zone.

Clause 35 – Schools – Development permitted with consent

Sub clause 6 notes that before determining a development application for the purpose of a school or ancillary facilities to a school, the consent authority must take into consideration the design quality of the development in accordance with the principles (below) and, whether the development enables the use of school facilities (including recreational facilities) to be shared with the community.

The development application was accompanied by a response to the SEPP's Schedule 4 design quality principles namely context, built form and landscape, sustainable, efficient and durable, accessible and inclusive, health and safety, amenity, whole of life, flexible and adaptive and aesthetics.

- **Principal 1 – Context, Built form and landscape.**

The Height of Buildings Map identifies a maximum building height for the site of 8.5 metres. The application proposes a maximum building height of 13.586 metres, which equates to a 59.8% departure. Council is of the view that the height of buildings can be reduced by re-locating the plant equipment from the roof of the structure, and by stepping the building to reduce the subfloor areas at the eastern end of the building. The nearest built form in the street are one and two storey single dwellings in Napier Street with which the proposed built form is not consistent with.

The building is setback 6.4m from Napier Street with significant elements protruding into this setback. The building fails to align with the topography of the site where the eastern end of the building includes a substantial subfloor area which adds unnecessary the bulk of the building and elongates shadows cast on Napier Street and onto the neighboring reserve to the east.

The proposal also fails to respond to its context in terms of traffic and car parking whereby an existing issue with traffic movement in and out of two separate cul-de-sac streets on either side of the school will be exacerbated by the student numbers more than doubling. Without a solution to the traffic movement, drop-off/pick-up and on-street car parking issues on the site, the proposal fails to respond to the increased demand on these elements with a real solution, which is the provision of a vehicular carriageway linking France and Napier Streets.

- **Principal 2 - Sustainable, Efficient and durable**

Explicit information has not been provided from the applicant in relation to the design minimising the consumption of energy, water and natural resource nor is there information regarding the reduction of waste through recycling. Although, it is considered the orientation of the building and the skylights on the roof allow for a high level of passive solar access and the multi-room design allows for cross-ventilation of the learning spaces. The multi-room design also allows for the use of the learning spaces to be flexible thus capable of being adapted in future to assist in the needs of the school where required.

- **Principal 3 – Accessible and inclusive**

The subject proposal only relates to a partial section of the site hence this principle is only explored in this regard. The development is considered to provide a clear entry point on Napier Street and integrates well into the central landscaped areas of the school with clear paths of travel for visitors. It should be noted the proposal includes a new school main office which can be considered the primary destination for visitors. The applicant has not advised of any plans for the facility to be shared with the community apart from the RE1 zoned land which will remain as a shared area on the Cup and Saucer Creek foreshore, but the proposal could facilitate other uses including activities outside of school hours.

- **Principal 4 – Health and safety**

This principle notes that 'good school development optimises health, safety and security within its boundaries and the public domain'. Canterbury South Public School is existing, and the proposal enhances the existing school layout, and buildings while creating meaningful landscaped areas, with access to the Cup and Saucer Creek foreshore areas.

The lack of a permanent and reliable solution for traffic movement around the school however, is considered a safety hazard for pedestrians accessing the school. There is a large number of vehicles performing u-turns and three point turns in Napier and France Streets at school start and finish times currently with only 287 students, putting pedestrians at risk. This issue will be exacerbated greatly with the proposed 680 students.

- **Principal 5 – Amenity**

The proposal includes a variety of spaces that are capable of being used for a range of activities including educational, community and informal purposes. The use of the building (educational or community) would not adversely change the existing amenity of the adjacent developments or local neighbourhood however, the substantial increase in the number of students and teachers on the site without adequate drop-off/pick-up facilities and staff car parking will not only impact on the safety of persons attending the school, but the neighbourhood generally with increased reliance on street car parking in front of residential homes.

The proposed re-alignment of Napier Street car parking involves taking away street parking from in front of residential properties and establishing a 90degree car parking on the other side of the street with parking limitations during school peak times which will have an unreasonable impact on the amenity of neighbours living in Napier Street, without a significant increase in the provision of car parking in any case. Council's Traffic Engineer's have also noted that the proposed parking re-alignment in Napier Street is not in keeping with the relevant Australian Standards and that the road width is insufficient. This arrangement is not supported. Furthermore, the removal of parking from the residential side of the street and prohibits any parking on Napier Street during school pick-up and drop-off times is also not supported.

- **Principal 6 – Whole of life, flexible and adaptive**

It is considered the proposal may allow for additional uses (educational or community) as a result of the flexible learning spaces and is consistent with this principle.

- **Principle 7 – Aesthetics**

Although the proposed building presents well to the school community within the site, no effort was made to reduce the bulk and scape it presents to Napier Street to enable 'achieving a built form that has good proportion and balances composition of elements'. The development does not have sufficient setbacks off Napier Street to absorb the impacts of the built form proposed.

The proposal is not considered to be consistent with the above principles.

Clause 57 – Traffic-generating development

This clause applies to any educational establishment being able to accommodate 50 or more additional students and involves an enlargement or extension of existing premises and is therefore applicable to this development. Subclause (2) requires that consent authorities must refer the application to the Roads and Maritime Services (RMS), which this application has been with the RMS raising no objections due to the development will not have a significant impact on the state road network and notes that "this conclusion is based on the development sites location with all access to be via local roads, the majority of students living on the eastern side of Canterbury Road and its separation from the state road network". Subclause (2) (b) further states that the consent authority must take into consideration matters referred to subclause (3) below:

(3) *The consent authority must take into consideration—*

- (a) *any submission that RMS provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, RMS advises that it will not be making a submission), and*

RMS submission noted as above.

(b) *the accessibility of the site concerned, including—*

- (i) *the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*

The traffic related information submitted with this application was found to be insufficient and inaccurate in some areas with further traffic and parking surveys requested but not provided. In this instance, Council's Traffic Engineers believe the only way additional capacity can be accommodated is by improving the existing road network for which Council has provided solutions. However, these have not been considered in the submission.

- (ii) *the potential to minimise the need for travel by car, and*

The traffic report (3.5 Public Transport) states that:

"A suitable location for a bus stop has been identified on the south western side of Canton Street near the High Street intersection."

This location is unsafe for a school bus stop as it requires students to cross the road to access it. The applicant was requested to liaise with the bus company and consult with residents on the streets where the bus routes and bus zones are proposed prior to suggesting an alternative bus stop location. This information was not provided.

- (c) *any potential traffic safety, road congestion or parking implications of the development.*

The proposed arrangement raises numerous safety issues as a drop-off pick-up zone. As Napier Street is a cul-de-sac, all traffic must enter and exit at the intersection with High Street. During school peak periods, there will be a high frequency of vehicle movements, particularly reversing movements out of spaces and driveways onto the road. Combined with high pedestrian activity in the area this greatly increases the risk of pedestrian and vehicle conflict.

The proposal also fails to provide sufficient on-street car parking to accommodate the proposed number of staff and students. Traffic and car parking issues are discussed in more detail under the Canterbury DCP 2012 heading of this report.

State Environmental Planning Policy No.64 Advertising and Signage

Councils' assessment of the application suggests that the provisions contained within this planning legislation are satisfied.

Standard	Proposal	Complies
1. Character of the area		
Is the proposal compatible with the existing or desired	The proposed signage is compatible with the proposed character of the area and the locality in which it is to be	Yes

future character of the area or locality in which it is proposed to be located?	situated.	
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The proposed signage and colours are consistent with the proposed school colour scheme.	Yes
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?	The proposed sign is of a satisfactory size and location that will have minimal impact on the recreation open spaces within the vicinity of the subject site.	Yes.
3. Views and Vistas		
Does the proposal obscure or compromise important views?	Given the location and height of the structures the signage is to be applied to, it does not obscure or compromise important views.	Yes.
Does the proposal dominate the skyline and reduce the quality of vistas?	The proposed signage will not dominate the skyline or reduce the quality of vistas.	Yes.
Does the proposal respect the viewing rights of other advertisers?	Given the location and height of the structure the signage is to be applied to, it will respect the viewing rights of other advertisers.	Yes.
4. Streetscape, Setting or landscape		
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The proposed scale, proportion and the form of signage is appropriate for the surrounding setting and streetscape.	Yes.
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The proposed number of signs is considered acceptable for the re-development of the school	Yes.
Does the proposal screen unsightliness?	No unsightliness to screen.	N/A
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The signage stays within the property boundaries, the height of the existing structures or the tree canopy of the area.	Yes.
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?	The signage is compatible with the size of the site.	Yes.
Does the proposal respect important features of the site or building or both?	The signage respects the features of the site they are located within.	Yes.
Does the proposal show innovation and imagination in its relationship to the site or building or both?	The utilisation of contemporary materials and design of the overall product for the proposed signage, shows innovation and imagination to both the site and building.	Yes.
6. Associated devices and logos with advertisements and advertising structures		
Have any safety devices, platforms, lighting devices or	No devices are proposed as part of the signage design.	N/A

logos been designed as an integral part of the signage or structure on which it is to be displayed?		
7. Illumination		
Would illumination result in unacceptable glare?	No illumination proposed.	N/A
Would illumination affect safety for pedestrian, vehicles or aircraft?		
Would illumination detract from the amenity of any residence or other form of accommodation?		
Is the illumination subject to a curfew?	No illumination proposed.	N/A
8. Safety		
Would the proposal reduce the safety for any public road?	The proposed signage for the subject site is not considered to affect the safety of pedestrians or vehicles, as it is located within the property boundary line.	Yes.
Would the proposal reduce the safety for pedestrians or cyclists?		

State Environmental Planning Policy 55 – Contaminated Land (SEPP 55)

Clause 7 of SEPP 55 – Remediation of Land requires Council to consider whether the land is contaminated prior to granting consent to the carrying out of any development on that land. Should the land be contaminated, we must be satisfied that the land is suitable in a contaminated state for the proposed use. If the land requires remediation to be undertaken to make it suitable for the proposed use, we must be satisfied that the land will be remediated before the land is used for that purpose.

The application is accompanied by a Stage 2 Environmental Site Assessment and Remedial Action Plan. Council's preliminary assessment suggests that the site can be made suitable for the development having regard to Clause 7 of SEPP 55, however further information is required regarding the remediation of the site which was requested has not been provided to Council for assessment.

State Environmental Planning Policy No 19—Bushland in Urban Areas

2 Aims, objectives etc

- (1) *The general aim of this Policy is to protect and preserve bushland within the urban areas referred to in Schedule 1 because of:*
- (a) *its value to the community as part of the natural heritage,*
 - (b) *its aesthetic value, and*
 - (c) *its value as a recreational, educational and scientific resource.*

Clause 6 Consent to disturb bushland zoned or reserved for public open space

- (1) *A person shall not disturb bushland zoned or reserved for public open space purposes without the consent of the council.*
- (4) *A consent authority shall not consent to the carrying out of development referred to in subclause (1) unless:*
- (a) *it has made an assessment of the need to protect and preserve the bushland having regard to the aims of this Policy,*

- (b) *it is satisfied that the disturbance of the bushland is essential for a purpose in the public interest and no reasonable alternative is available to the disturbance of that bushland, and*
- (c) *it is satisfied that the amount of bushland proposed to be disturbed is as little as possible and, where bushland is disturbed to allow construction work to be carried out, the bushland will be reinstated upon completion of that work as far as is possible.*

A portion of the site is zoned RE1 Public Recreation and is also 'Crown land' as it is owed by the Department of Education. This portion of land also forms part of the Pat O'Connor Reserve.

Although this application does not involve any works on the RE1 Public Recreation portion of the site, the roadway which is to link Napier and France Streets. This portion of the site would also need to be taken into consideration Clause 6 of SEPP 19- Bushland In Urban Areas.

State Environmental Planning Policy (Coastal Management) 2018

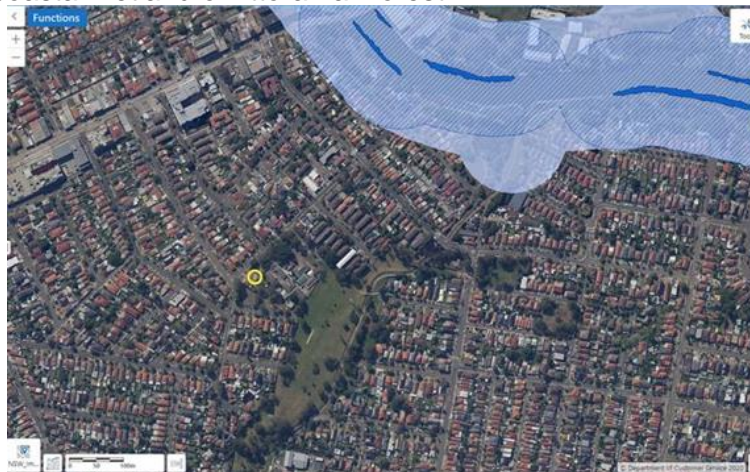
3 Aim of Policy

The aim of this Policy is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the [Coastal Management Act 2016](#), including the management objectives for each coastal management area, by—

- (a) *managing development in the coastal zone and protecting the environmental assets of the coast, and*
- (b) *establishing a framework for land use planning to guide decision-making in the coastal zone, and*
- (c) *mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the [Coastal Management Act 2016](#).*

The subject site has not been identified within a coastal wetland or littoral rainforest. The nearest coastal environmental area is the Cooks River and is located over 350m to the north-east. Therefore, it is considered that there will not be any impacts arising on coastal environmental areas. The development is consistent with the aims of the Coastal Management SEPP.

The map below indicates that the subject site (marked with a yellow dot) is not within the within vicinity of coastal wetland or littoral rainforest.



Source: https://webmap.environment.nsw.gov.au/PlanningHtml5Viewer/?viewer=SEPP_CoastalManagement

Canterbury Local Environmental Plan 2012

Provision/ Standard	Requirement	Proposal	Complies
Part 2 Permitted or Prohibited Development			
2.1-2.3 Zoning	Part R3 Medium Density Residential, Part R4 High Density Residential and Part RE1 Public Recreation	Minor demolition works to landscape areas/hardstand areas and re-development of Canterbury South Public School including demolition of existing structures and construction of a three storey school with a capacity of 690 students, increase staff from 26 to 58 and associated landscape works and realignment of car parking along Napier Street	No ^[1]
2.7 Demolition requires development consent	The demolition of a building or work may be carried out only with development consent.	Demolition of existing structures	Yes
Part 4 Principal Development Standards			
4.3 Height of Buildings	8.5m	The proposed building breaches the building height to the entire building. The highest breach being 13.586m	No ^[2]
4.4 Floor Space Ratio	0.5:1	0.82:1	No ^[3]
4.6 Exception to development standards	The applicant has submitted a CI 4.6 request to vary the development standard relating to the building height and floor space. Refer to detailed discussion below.		
Part 5 Miscellaneous Provisions			
5.10 Heritage Conservation	The subject sites are not identified as heritage items or within the vicinity of a heritage item or heritage conversation area.		
Part 6 Local Provisions			
6.1 Acid Sulfate Soils	Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.	Not affected by acid sulfate soils	Not applicable

Provision/ Standard	Requirement	Proposal	Complies
6.2 Earthworks	<p>Before granting consent to development including earthworks, the following must be considered:</p> <ul style="list-style-type: none"> (a) drainage patterns and soil stability (b) the likely future use or redevelopment of the land, (c) quality of the fill or the soil to be excavated, or both, (d) effect of development on existing and likely amenity of adjoining properties, (e) the source of any fill material and the destination of any excavated material, (f) the likelihood of disturbing relics, (g) the potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area, (h) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development. 	<p>The proposed earth works are considered acceptable. The proposal is not likely to detrimentally impact the environmental functions of the site or surrounding area and will unlikely disturb any relics.</p> <p>The proposal is accompanied by a Geotechnical Investigation of the site prepared by JK Geotechnics.</p>	Yes

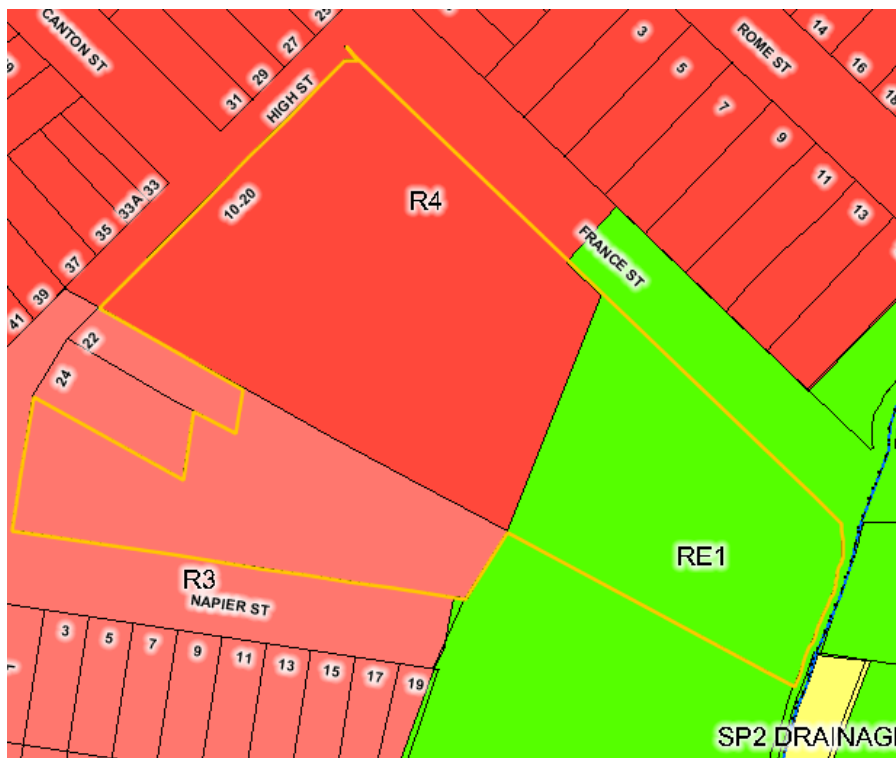
Provision/ Standard	Requirement	Proposal	Complies
6.3 Flood Planning	<p>This clause applies to land at or below the flood planning level.</p> <p>Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:</p> <ul style="list-style-type: none"> (a) is compatible with the flood hazard of the land, and (b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and (c) incorporates appropriate measures to manage risk to life from flood, and (d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding. 	The subject site has not been identified within a flood prone land.	Not applicable
6.4 Stormwater Management	<p>Consent must not be granted unless:</p> <ul style="list-style-type: none"> (a) Water permeable surfaces are maximized having regard to soil characteristics affecting on-site stormwater infiltration. (b) Includes on-site detention if practical as an alternative means of water supply. (c) Avoids significant impacts of run-off on adjoining land or the environment or minimises and mitigates impacts. 	The application was referred to Council's Development Engineer who has not raised any objections with the proposed stormwater plans	Yes

Provision/ Standard	Requirement	Proposal	Complies
6.6 Essential Services	<p>Essential services must be available or adequate arrangements have been made to make them available, including:</p> <ul style="list-style-type: none"> - the supply of water; - the supply of electricity (substation); - the disposal and - management of sewage; - stormwater drainage or on-site conservation; - suitable vehicular access. 	<p>The application does not propose a substation, as this formed part of the Complying Development Certificate application.</p> <p>If the application were to be approved a condition would be imposed stating that a substation does not form part of this consent and a separate application would be required.</p>	Yes

- **Zoning^[1]**

The site is part zoned part R3 Medium Density Residential and part R4 High Density Residential both of which do not permit Educational Establishments. The proposed development is permissible by virtue of Clause 35 of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017.

A portion of the subject is zoned RE1 Public Recreation, however no works are proposed within this zone. It should be noted that a portion of the suggested link road/laneway between France Street and Napier Street would fall within the RE1 zone. Roads are a permitted use within a RE1 Public Recreation zone.

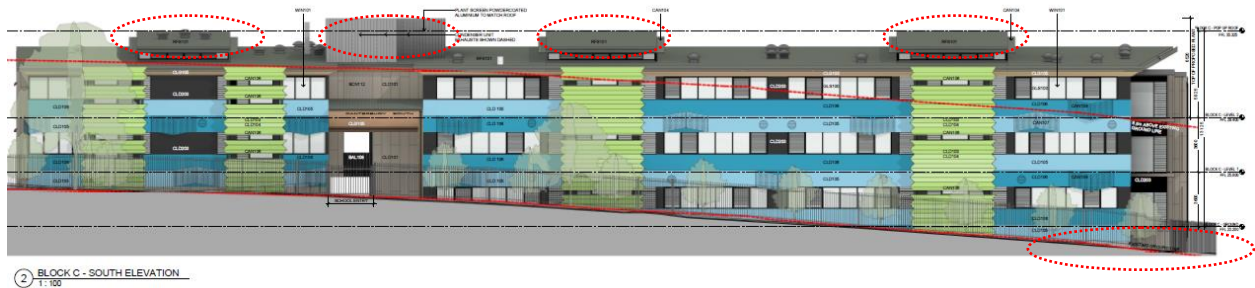


Subject sites shown within yellow boundary.

- **Clause 4.3 – Height of Buildings^[2]**

The Height of Buildings Map identifies a maximum building height for the site of 8.5 metres.

The application is seeking a variation to Clause 4.3 of the LEP which relates to the maximum permitted building height. The application proposes a maximum building height of 13.586 metres, which equates to a 59.8% departure.



The application includes a Clause 4.6 variation. Council is of the view that the height of buildings can be reduced by re-locating the plant equipment from the roof of the structure, removal of the clearstory windows and by stepping the building to reduce the subfloor areas at the eastern end (areas circled on excerpt from south elevation above).

(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.**

An extract from the applicant's submission with respect to this point is provided below:

The element of the school building that exceeds the building height development standard are located such that it will not cause adverse impacts on the built environment or the amenity of nearby properties. Specifically, the residential properties to the south, across Napier Street are not adversely affected in terms of overshadowing impacts, and privacy/overlooking impacts have been mitigated through design features including sill heights and screen landscaping.

The non-compliance with the height of buildings development standard allows for the orderly use of the land, which has the capacity to accommodate a high-quality educational facility. Furthermore, earthworks are proposed to reduce building height and the apparent bulk of the structure when viewed from Napier Street. Overall, the proposed educational facility building has been designed to respond to the constraints of the site, including the requirement for gradient levels for access requirements, requirements to meet lower and upper floor levels, as well as to provide suitable floor-to-ceiling heights within the school. This is considered to be a good planning outcome.

Furthermore, the provisions of the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (Education SEPP), Schedule 2 Schools – complying development permits new buildings, or alterations and additions to existing buildings up to a height of 22 metres (4 storeys).

Response:

The objectives to the Height of Buildings under Clause 4.3(1) of the CLEP 2012 are:

4.3 Height of buildings

(1) *The objectives of this clause are as follows—*

- (a) to establish and maintain the desirable attributes and character of an area,*
- (b) to minimise overshadowing and ensure there is a desired level of solar access and public open space,*
- (c) to support building design that contributes positively to the streetscape and visual amenity of an area,*
- (d) to reinforce important road frontages in specific localities.*

The predominant development within the vicinity of the subject site (particularly to the south – along Napier Street) are low density residential development. Hence, the proposed development does not reflect a built form that is consistent with the controls and development sought for the area. Supporting a variation to the building height of 13.586m at the highest point (i.e. 5.086m or 59.8%) would result in a development that would be out of character with the area and fails to meet the objectives to the height of building clause in the CLEP 2012.

The proposed building height breach will result in shadows reaching a number of dwellings along the southern side of Napier Street dwellings as well as part of Pat O'Connor Reserve. The shadow impacts from the proposal extend onto the front open spaces of these properties, as well as the front wall of the building

As stated above, the proposed building height can be reduced by re-locating the plant equipment from the roof, deletion of the clerestory windows, and by stepping the building to reduce the subfloor areas at the eastern end of the site. Furthermore, the proposal seeks 3.6m floor to floor, which could be revised to further reduce the overall building height.

The building height breach relates to the entire Block C building and incorporates gross floor areas and not just service areas. The breach is quite prominent when viewed from Napier Street and from Pat O'Connor Reserve.

The Applicant's clause 4.6 states that under a Complying Development under Schedule 2 of the SEPP (Educational Establishments and Child Care Facilities) 2017, new buildings are permitted to a height of 22m.

It should be noted that under Schedule 2 of the SEPP (Educational Establishments and Child Care Facilities) 2017, Clause 3 requires greater side and rear setbacks as the height of the building increases. This would result in buildings that are:

- b) more than 12m but less than 15m in height—must be located more than 8m from any side or rear property boundary with land in a residential zone or more than 2.5m from any side or rear property boundary with land in an industrial or a business zone, or*
- c) more than 15m but less than 22m in height being located more than 10m from any side or rear property boundary with land in a residential zone or more than 4m from any side or rear property boundary with land in an industrial or a business zone.*

Hence, the amenity impacts to the adjoining residential zones is minimised. The proposal does not meet the required setbacks specified above and therefore cannot be considered as a complying development under Schedule 2 of the SEPP (Educational Establishments and Child Care Facilities) 2017.

Therefore, given the impacts the proposed building height breach will create, it has not been demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

(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

With regard to the above, it is considered that the applicant's written submission under Clause 4.6 of CLEP 2012 to vary the building height is not well-founded and it has not been adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. The submission has not provided sufficient environmental planning grounds to justify the contravention to the building height.

The written submission has not adequately addressed the matters required by sub-clause (3).

(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

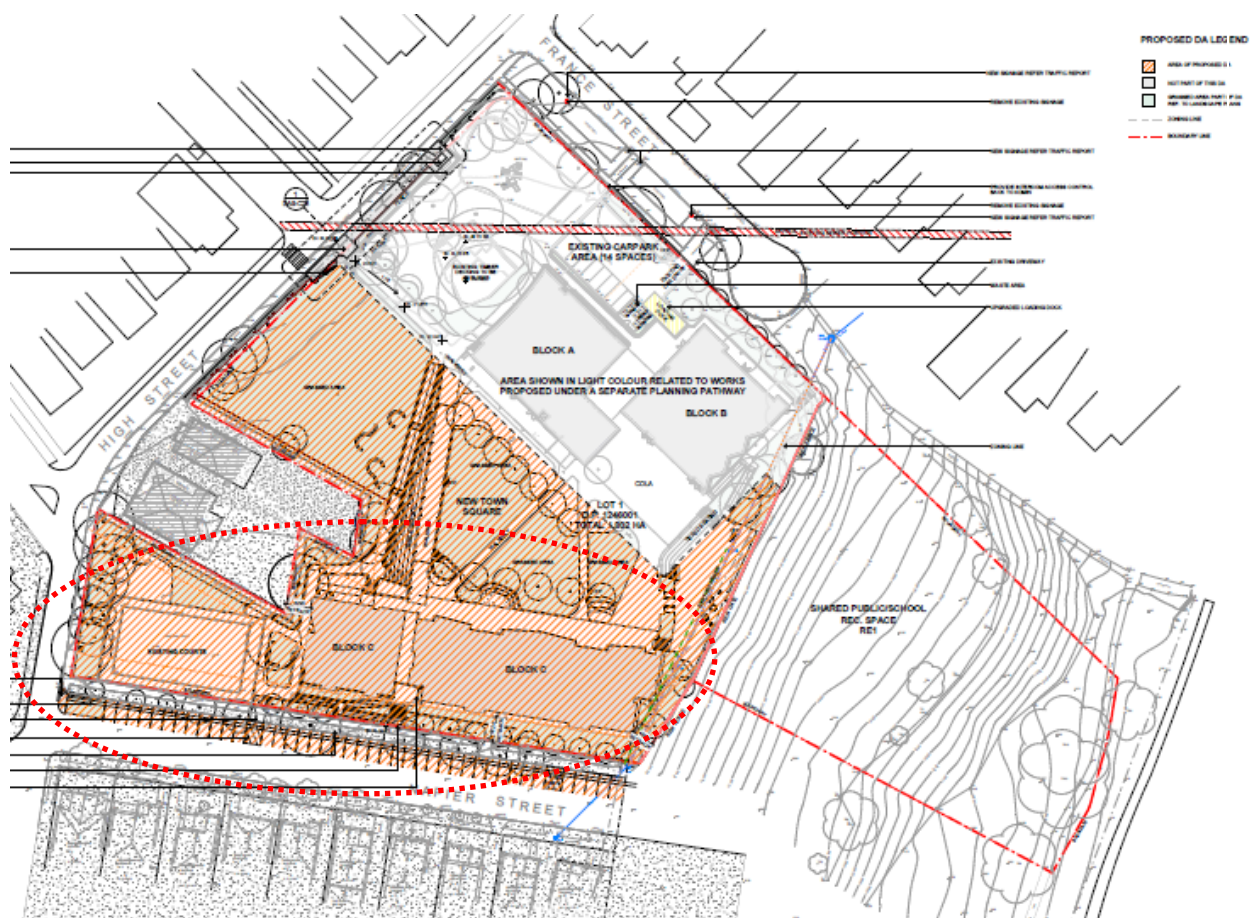
Objective	Discussion
(a) <i>to establish and maintain the desirable attributes and character of an area,</i>	The proposed Block C building has been concentrated along the frontage of Napier Street, which consists of mainly low density residential dwellings. Given, the R3 Medium Density Zone of this portion of site and that along Napier Street and adjoining streets with an 8.5metre building height limit under the CLEP 2012. The existing and envisaged future character of the area would not see an exceedance of two-storey buildings As addressed throughout the discussion relating to the Clause 4.6 submission, the proposal will not maintain the desirable attributes and character of the area and a three storey building height of 13.586m will not maintain the establish and desirable attributes of the character if the area.
(b) <i>to minimise overshadowing and ensure there is a desired level of solar access and public open space,</i>	As demonstrated in the shadow diagrams submitted with the application, the proposal casts shadow reaching the front of the dwellings to the northern side of Napier Street and also to parts of the open space at pat O'Connor Reserve. Therefore, the proposal in its current form does not minimise overshadowing and fails to meet this objective.
(c) <i>to support building design that contributes positively to the streetscape and visual amenity of an area,</i>	<p>The proposed building design will not contribute positively to the streetscape. The breach to the building height, the number of storeys and excessive services located on the roof would result in a dominant building which would result in a poor planning outcome.</p> <p>The applicant's submission states that:</p> <p><i>"From the street the main bulk of the building to the main roof eaves line reads as a two / two and half storey building than a three storey building".</i></p> <p>The proposed development when viewed from the western side of Napier Street (as seen in the photomontage) will appear as two storeys, however that are still considerable portions of Block C that are three storey when viewed from Napier Street and Pat O'Connor Reserve. Refer to southern elevation below.</p>

	 <p>Source: Architectural Plans (NBRS Architecture)</p>
(d) to reinforce important road frontages in specific localities.	Not applicable to this application

Therefore, the proposal is not in the public interest, as the objectives of the of the Height of Building have not been met and a building with a compliant height would still meet the objectives of the R3 Medium Density Residential Zone, in providing “*other land uses that provide facilities or services to meet the day to day needs of residents*”.

- **Clause 4.4 - Floor Space Ratio^[3]**

The application is seeking a variation to Clause 4.4 which relates to floor space ratio. According to the LEP Floor Space Ratio Map, the southern portion of the site (R3 zoned land) on which the proposed ‘Block C Building’ is to be located has a maximum floor space ratio of 0.5:1. The remainder of the site is zoned R4 – High Density Residential with a maximum FSR of 0.75:1 and RE1 Public Recreation with no set FSR. The proposal involves a floor space ratio of 0.82:1 on the R3 zoned portion of the site alone.



The application includes a Clause 4.6 variation. The objectives of the Clause 4.4 Floor Space Ratio include “to protect the environmental amenity and desired future character of an area”,

and “to minimise adverse environmental impacts on adjoining properties and the public domain”. Council will take into consideration the merits of the development in determining whether a variation to the maximum floor space ratio allowable on this portion of the site is appropriate in light of the limitations of the site with regard to the existing cul-de-sac nature of the two street frontages and impacts of this on the amenity and desired future character of the area.

(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.**

An extract from the applicant’s submission with respect to this point is provided below:

The element of the school building that exceeds the FSR development standard are located such that it will not cause adverse impacts on the built environment or the amenity of nearby properties. Specifically, the residential properties to the south, across Napier Street, are not adversely affected in terms of overshadowing impacts, and privacy/overlooking impacts.

Block C (which is the building located within the R3 zoned land) has been designed having regard to the character of the area, the streetscape and the overall visual amenity of the locality. The building has been cut into the site on the western side with the ground sloping up to Napier Street. This reduces the scale of the building to adjacent residential properties to the west and along Napier street.

Furthermore, strict compliance with the FSR development standard would result in an inefficient use of the land or alternatively, result in an inferior design outcome where additional smaller buildings (located in the R4 zoned land which allows for a greater FSR) would occupy more of the site. This would reduce pervious areas and outdoor play spaces. Strict compliance would prevent the achievement of these design outcomes.

As discussed above, it is noted that works proposed (to be undertaken a separate planning pathway) within the R4 High Density Residential zoned portion of the site will have a FSR of 0.20:1. When taking into account the R3 and R4 zoned land of the school, and the proposed gross floor area across the site, the re-development of the school will have a FSR of 0.40:1, which is well below the 0.50:1 FSR rate stipulated for the R3 zoned land. In calculating the FSR across the site, that part of the site zoned RE1 has been excluded.

Compliance with the floor space ratio development standard is also considered unnecessary in this instance as the variation does not give rise to adverse impacts to the built environment or surrounding properties and therefore there are sufficient environmental planning grounds to justify the variation.

Response:

The objectives to the Floor Space Ratio under Clause 4.4(1) of the CLEP 2012 are:

- (1) The objectives of this clause are as follows—
 - (a) to provide effective control over the bulk of future development,
 - (b) to protect the environmental amenity and desired future character of an area,

- (c) *to minimise adverse environmental impacts on adjoining properties and the public domain,*
- (d) *to optimise development density within easy walk of the railway stations and commercial centres.*

Concentrating Block C to only the one portion of the site has not resulted in an effective control of the bulk of the building. The Applicant states that providing a number of smaller buildings will occupy more of the site and reduce the pervious and outdoor play areas.

The overall site area is 1.802 hectares, approximately 4944sqm of this area is zoned RE1 Public Recreation which accommodates additional outdoor play areas.

Furthermore, the increase in FSR to accommodate additional pupil numbers from 265 to a maximum of 690 is considered to create adverse environmental impacts and the increase in traffic generation will adversely impact on the movement of traffic in the local road network.

Objective	Discussion
<i>(a) to provide effective control over the bulk of future development</i>	The proposed Block C building has been concentrated along the frontage of Napier Street, which consists of mainly single and two storey dwellings. The sites within the R3 Medium Density Residential zone which have a maximum FSR of 0.5:1. As stated above, the applicant has concentrated Block C to the southern side of the site to allow for the areas around the school to be used for open spaces, in lieu of small buildings that would reduce the amount of open space. The subject site also provides approximately 4944sqm of open space on the portion of the site that is zoned RE1 Public Recreation which can also be utilised by the students for recreational activities.
<i>(b) to protect the environmental amenity and desired future character of an area</i>	The proposal in its current form does not protect the environmental amenity and desired future character of the area, the resultant three storey form along Napier Street is inconsistent with the desired future character of the area.
<i>(c) to minimise adverse environmental impacts on adjoining properties and the public domain</i>	The proposed building has not minimised the adverse impact to the adjoining properties and public domain and does not contribute positively to the streetscape. The breach to the FSR will create a dominate structure along Napier Street and its visibility from Pat O'Connor Reserve.
<i>(d) to optimise development density within easy walk of the railway stations and commercial centres.</i>	Not applicable to this application

The written submissions have not adequately addressed the matters required by sub-clause (3).

- (i) 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***

Objectives of the Zones:

Zone R3 Medium Density Residential

1 Objectives of zone

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Zone R4 High Density Residential

1 Objectives of zone

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

The re-development of the educational establishment falls within the R3 Medium Density and R4 High Density Residential zones both of which do not permit Educational Establishments. The proposed development is permissible by virtue of Clause 35 of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017. Although, both zones enable other land uses that would provide services to meet the day to day needs of residents. The extent of re-development breach to the height of building and floor space ratio the proposal is considered excessive and the implications of not providing an internal road to link Napier and France Streets will create a safety concern for the users of the school and general public.

(b) the concurrence of the Planning Secretary has been obtained.

The concurrence of the Director General is assumed having regard to previous advice received from the Department of Planning and Environment in Circular PS 20-002.

Conclusion

Based on the foregoing, the requested contravention of the development standards relating to the height of buildings and floor space ratio is not well founded and is not supported for the following reasons:

- I. an appropriate degree of flexibility has not been applied and better outcomes are not achieved by the contravention of the building height.
- II. the circumstances of the proposal do not warrant contravention of the standard,
- III. there are not sufficient environmental planning grounds to warrant contravention,
- IV. the proposal is not in the public interest, as the development is not consistent with relevant objectives of the standard and the zone, and
- V. there is a public benefit in maintaining the standard, in the circumstances of the subject application.

Proposed Environmental Planning Instruments [section 4.15(1)(a)(ii)]

On 6 March 2020 the Canterbury Bankstown Local Planning Panel endorsed the Planning Proposal to undergo exhibition. The Draft CBLEP was placed on public exhibition from 9 March 2020 and is a matter for consideration.

The Planning Proposal (PP_2019_CBANK_005) seeks to produce a single set of planning rules and combine and align the Bankstown LEP 2015 and Canterbury LEP 2012 into a consolidated Local Environmental Plan.

- Produce a single land use table consistent with the Local Strategic Planning Statement, Standard Instrument (Local Environmental Plans) Order 2006 and other State requirements.
- Resolve differences between Bankstown LEP 2015 and Canterbury LEP 2012.
- Comply with the Gateway Determination issued by the Department of Planning, Industry & Environment (dated 20 February 2020), namely the conditions to preclude

any changes to residential land uses and development standards, and to preclude the rezoning of any land other than those included in current land use strategies.

Planning Proposal (PP_2019_CBANK_005) which is now on public exhibition and is a draft instrument and is a matter for consideration under Section 4.15 (1)(a)(ii) of the Environmental Planning and Assessment Act, 1979.

Council is seeking the addition of a Design Quality Clause within the Draft CBLEP. This draft clause which formed part of the Planning Proposal (PP_2019_CBANK_005).

Draft Design Quality Clause

6.14 Design Quality

- (1) The objective of this clause is to ensure that development achieves good urban design and supports quality places for people.*
- (2) This clause applies to the following development: residential flat buildings, multi dwelling housing, boarding houses, seniors living, mixed use development, shop top housing, commercial premises, industrial buildings, warehouse or distribution centres, centre-based child care facilities, schools, places of worship, registered clubs, community facilities, in relation to:*
 - the erection of a new building, or*
 - in the Council's opinion, significant alterations or additions that are visible from the public domain.*
- (3) Before granting consent for development, the consent authority must have regard to the following matters, to the extent it considers them relevant to the proposed development:*
 - (a) whether the development positively contributes to the urban context and site conditions in terms of natural features, built form, streetscape, street wall height, building separation, setbacks, amenity, building bulk and modulation,*
 - (b) whether the development positively contributes to the quality and amenity of the public domain in terms of landscaping, passive surveillance, visual interest and the interface of public and private domain,*
 - (c) whether the development uses external materials that are good quality, durable and low-maintenance,*
 - (d) whether the development achieves a high standard of architectural detailing and colours that are appropriate to the building type and location,*
 - (e) whether the development achieves the principles of ecologically sustainable development,*
 - (f) whether the development achieves internal layouts that are functional, efficient and fit for purpose,*
 - (g) whether the development integrates a high quality landscape design with the built form,*
 - (h) how the development satisfactorily addresses the following matters:*
 - impacts on heritage items, heritage conservation areas or historically significant buildings on the site or in the vicinity of the site,*
 - environmental impacts such as solar access, visual and acoustic privacy, wind, reflectivity, urban heat and water sensitive urban design,*
 - pedestrian, cycle, vehicular and service access and circulation requirements,*
 - the integration of waste management infrastructure in the site layout and building design.*

Given, the assessment made throughout this report, the proposal would not be in line with the envisaged design quality and would be inconsistent with the Draft CBLEP and draft Design Quality Clause.

Development control plans [section 4.15(1)(a)(iii)]

The following table provides a summary of the development application against the controls contained in Part B1, B2, B3, B4, B5, B7, B9, F1 and F8 of the Canterbury Development Control Plan 2012. As the application was lodged on the 25 February 2019, the application was assessed against Amendment 3 of the CDCP 2012.

Canterbury Development Control Plan 2012 (CDCP 2012)

The proposed development has been compared to the requirements of CDCP 2012 as follows:

Council's Traffic Engineer have reviewed the Traffic Impact Assessment Report, Green Travel Plan, Statement of Environmental Effects and Architectural Plans and has raised the following issues with the application.

Part B1 – Transport and Parking

An assessment of the proposal against the car and bicycle parking rates in Part B1 of CDCP 2012 is provided below:

Car Parking

All parking associated with the development (for staff and drop-off and pick-up of students) is to be located on-site. The traffic report (*3.4 Impact on Parking, pg 9*) implicates that there is a shortfall of 15 staff parking spaces and states that all proposed drop-off and pick-up spaces will be on-street. A public road cannot be used to meet the parking requirements for the development, particularly where the proposed increase in on-street car parking does not meet the applicable Australian Standards.

Proposed Parking Arrangement on Napier Street

- The proposed arrangement does not comply with AS2890.5 Fig 2.5 for the layout for minimum roadway width for 90 degree angle parking spaces. The road width is insufficient. The proposal removes parking from the residential side of the street and prohibits any parking on Napier Street during school pick-up and drop-off times. This arrangement is not supported.
- The Preliminary Traffic Response justifies the proposed arrangement of 90 degree angle parking by referring to the minimum requirements set out in “AS 2890.1 *Parking Facilities, Part 1: Off-Street Car Parking*”. These standards do not apply to Napier Street, a local road. For any on-street parking requirements, “AS 2890.5, *Part 5: On-Street Car Parking*” is to be used.
- The proposed arrangement raises numerous safety issues as a drop-off pick-up zone. As Napier Street is a cul-de-sac, all traffic must enter and exit at the intersection with High Street. During school peak periods, there will be a high frequency of vehicle movements, particularly reversing movements out of spaces and driveways onto the road. Combined with high pedestrian activity in the area this greatly increases the risk of pedestrian and vehicle conflict.

Traffic Generation

The Traffic Report (*3.2 Future Trip Generation & 3.3 Impact of Generated Traffic*):

- Assumes there is an increase of 10% in sustainable travel. This is not accepted as a design parameter.
- Assumes vehicle occupancy increases from 2 to 2.5 due to *“increased carpooling”*. This is not accepted.
- States, as a result of the above assumptions, that the proposed net traffic generation, is 102 veh/hr. Without these assumptions the net traffic generation increases to 234 veh/hr, more than 2 times the net traffic generation stated in the report.
- Assumes High Street functions *“as part of a local collector route”* which a maximum environmental capacity of 500 vehicles per hour. High Street is a local road, which according to the RMS Guide to Traffic Generating Developments, has a maximum environmental capacity of 300 vehicles per hour. The surveys provided indicate that High Street is currently operating at capacity. This assumption also contradicts the statement made in previously in the Traffic Report (3.1 Existing Trip Generation) that *“High Street operates purely as an access street for local residents and is not a desirable route for through traffic”*. This is incorrect. Evidence based on traffic surveys, site inspections and resident feedback, shows that it is used daily as a rat-run to avoid congestion on Canterbury Road.

It is very clear that the only way additional capacity can be accommodated is by improving the existing road network for which Council has provided solutions. However, these have not been considered in the submission.

Traffic Surveys

- The RMS Guide to Traffic Generating Developments does not include traffic generation rates for schools. In the absence of these rates, the Guide recommends *“surveys of existing developments similar to the proposal”*. In the report, the existing traffic generation was calculated *“based on observations”* of parking space turnover rates and the number of children walking to Canterbury South Public School. To ascertain existing traffic movements in and out of the school, a formal traffic survey in the streets surrounding Canterbury South Public School is necessary.
- A survey was only conducted at the intersection of High Street and Canton Street. Further surveys are required at the intersections of:
 - High Street and Cressy Street
 - High Street and Cooks Avenue
 - High Street and Napier Street
 - High Street and Howard Street
 - High Street and France Street
 - High Street and Rome Street
 - High Street and Fore Street
 - Canterbury Road and High Street
 - Woolcott Street and High Street
- Analysis of the traffic impacts on key intersections on the local road network surrounding Canterbury South Public School are required, including modelling of the existing and future development scenarios.
- In order to assess the environmental capacity, daily traffic volumes (AADT) for existing and future scenarios are required for all streets surrounding the site including:
 - High Street
 - Cooks Avenue
 - Napier Street

- Howard Street
 - France Street
 - Rome Street
 - Fore Street
 - Cressy Street
 - Ivy Street
- Origin and destination surveys are required to identify pedestrian routes to and from the site. Appropriate pedestrian facilities and upgrades should be provided to ensure safe pedestrian access to and from Canterbury South Public School.

Proposed Bus Stop Location

- The traffic report (3.5 *Public Transport*) states that:
“A suitable location for a bus stop has been identified on the south western side of Canton Street near the High Street intersection.”
 This location is unsafe for a school bus stop as it requires students to cross the road to access it.

Prior to the nomination of a bus stop location, the applicant is required to liaise with the bus company and consult with residents on the streets where the bus routes and bus zones are proposed.

The above comments were provided to the Applicant on the 29th of July 2019, however the information was not forthcoming.

Part B2 – Landscaping and Part B3 – Tree Preservation

The application provided a landscape plan the proposal was referred to Council’s landscape architect who have provided conditions.

The comments made by council Biodiversity Officer have been addressed under the heading Biodiversity Conservation Act 2016.

Council’s tree officer has granted approval for the removal of trees from the site under the Tree Preservation Order which also included replacement trees.

Part B4 – Accessible and Adaptable Design

The access report prepared by Metro Building Consultancy dated February 2019 was submitted as part of the Development Application. The report concludes that the design generally complies with the relevant standards. The design is at a point where the development can commence, further reviews will be carried out during the next stages and prior to the completion of the design or verified prior to construction stage. On this basis, the design is considered acceptable from an accessible and adaptable design perspective.

Part B5 – Stormwater and Flood Management

The application is capable of complying with Part B5 of the CDCP 2012 and should the application be approved appropriate conditions can be imposed.

Part B7 – Crime Prevention and Safety

Council’s Community Safety and Crime Prevention Officer has reviewed the proposal and has provided the following assessment against the key aspects of CPTED:

Territorial Reinforcement

- The SoEE states that repair (e.g removal of graffiti) and maintenance issues will be addressed by the school. This form of environmental maintenance is sufficient.
- The SoEE highlights the delineation between private and public spaces.

Surveillance

- The applicant highlights street frontages to France, High and Napiers Streets with direct surveillance/sightlines.
- The use of a security patrols is a good type of formal surveillance measure. However, the applicant does not state the duration of the patrols, only mentions 'after school hours'. The applicant must state the duration, and whether this will include surveillance on the weekend days.

Access Control

- The applicant notes the use of security fencing, signage (to identify the school as well as parking restrictions (pp. 15-16). This is clear and direct and eliminates user confusion.
- There does, however, need to be a clear demarcation between the staff car parking are (figure 18 of the SoEE), the new loading dock and enlarged waste storage facility.
- The SoEE does mention landscaping though this is not canvassed from a CPTED perspective. Vegetation can play an important part in natural surveillance and the applicant should consider this in the landscape design. Plants can be chosen for their abilities to assist in the reduction of crime.

Space and Activity Management

- No additional comments on this section.

Other comments

Fire Safety emergency procedures

Should the application be approved any fire safety and emergency procedure can be conditioned and will need to comply with the National Construction Code.

Part B9 - Waste

The application was referred to Council's Resource Recovery Officer who did not raise any objections to the proposal, subject to conditions.

Part F1 – Signage

Requirements	Numerical requirements	Proposal	Complies
F1 Signage F1.1 General Objectives	To ensure that signage communicates in an appropriate manner and location, and does not contain offensive or objectionable content.	The proposed signage is of appropriate size, location and does not contain any offensive content.	Yes.
	To ensure signage is of high quality design and finish, does not contribute to visual clutter, or have adverse impact on vehicular or pedestrian safety.	The proposed signage and location is not anticipated to result in visual clutter or have adverse impacts on vehicular or pedestrian safety.	Yes.
	To ensure changes to existing signs are consistent with requirements that apply to new signs.	Not applicable	N/A
	To ensure signs contribute to the safety, legibility and amenity of Canterbury, and its natural and built environment.	The proposed signage does not detract from the surrounding built environment and is considered suitable.	Yes.
F1.2.2	Signage is not permitted to project	The proposed signage will not project above the surrounding	Yes.

General Design and Siting Controls F1.2.3 Appearance and Maintenance	above the predominant building scale. In particular, do not interrupt any views, vistas or skylines, interrupt pedestrian movement, or cause overshadowing.	buildings and will not interrupt any views or skylines.	
	Signage shall complement the streetscape, landscape or building.	The proposed signage is to be of high quality materials attributing to high quality signage.	Yes.
	Relate signage to the architectural lines and detail on a building façade, or in the absence of architectural detail or decoration, relate to the design lines of adjoining buildings. Do not obscure significant features such as doors, windows and architectural detailing.	The proposed signage is relevant and complements the architectural design of the building façade, the signage is similar to the surrounding streetscape, therefore will not obscure significant features on the building.	Yes.
	Landscape features, landscaping and architectural features are to be used to blend signage in with the surroundings and integrate with the building or site.	No landscaping features proposed.	N/A
	Signage is not to dominate in terms of scale, number, proportion and form or any other attributes.	The proposed signage is of relevant scale and proportion for the size and frontage of the related school.	Yes.
	The amount of signage may be limited due to the cumulative impact on a locality or a building.	The proposed signs do not cause detriment to the locality or the building.	Yes.
	Design and place signage so that it does not have any detrimental effect on occupants of residential properties.	The design and placement of the proposed signage is suitable and unlikely to create any detrimental effects upon adjacent properties.	Yes.
	A high standard of design and presentation is to be achieved.	The proposed signs will achieve a high standard of design and presentation.	Yes.
	Signs must be professionally sign written and of durable materials.	The proposed signs will be of high quality and be constructed of durable materials.	Yes.
F1.2.4 Wording and Content	Where the text of an advertisement is in a language other than English, include an English translation of a sufficient size to be legible to the public	Proposed sign to be in english only.	Yes
	Signage is not to include offensive or objectionable material in the content of an advertisement (such as discriminatory messages, promotion of unlawful or anti-social behaviour, encouraging excessive consumption of alcohol, pornography, or offensive language).	Proposed sign identifies the school as an educational institution.	Yes.
	The size of the name or logo, of the owner or leasee of signage, shall be a maximum of 0.25m ² , and placed only within the advertising	Not applicable	N/A

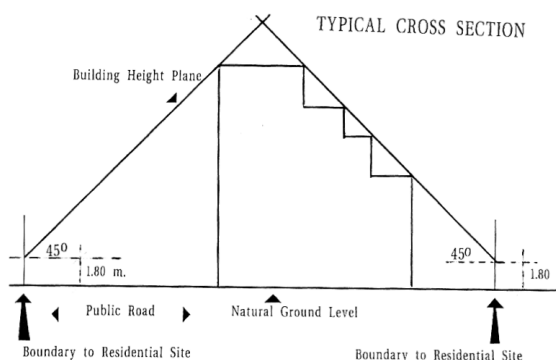
	display area.		
	When a business or organisation offers a product or service, the name of the business or organisation should have greater dominance than the product or service.	No services are being displayed	N/A
F1.3.1 Residential Zones	Locate signs wholly within the property.	The proposed signs are located wholly within the property.	Yes.
	Signage content can only indicate the purpose for which the property is lawfully used.	The proposed signs will promote the School for which it is lawfully used	Yes.
	Signage is to be affixed to the wall of the dwelling or a fence.	Signage is proposed for a school located behind the fence along Napier Street and the proposed sign along High Street will be positioned on the proposed front fence.	Yes
	Freestanding signs are only permitted in relation to a non-residential use where the signage suits the character of the building or the locality, such as a doctor's surgery or place of worship.	The proposed signs are not freestanding signs.	Yes

Part F8 – Non-Residential Development in Residential Zones

The objective of Part F8 is to:

'To reduce unreasonable amenity impacts on surrounding residents caused by non-residential uses'.

Standard	Requirement	Proposal	Complies
Part F8	C1 Non-residential development in a residential zone will be assessed for its impact on residential amenity	Noted	No
	C2 Non-residential development in a residential zone will only be acceptable where adverse impacts on the amenity of residences in the immediate area (for example through traffic generation, parking demand, noise or any other form of pollution that is incompatible with residential uses) are avoided or minimised.	The proposal seeks re-development of the existing educational establishment and increase in more than double the current student and staff numbers	No
	C3 Council may impose conditions of consent to minimise any impact on residential amenity including limiting the scale of the development, restricting hours of operation or the like	Given the extent of works proposed it would be difficult to impose conditions limiting the scale of development.	No

		As the proposal is 'Crown' development, the applicant/Crown must provide their concurrence and approval of any conditions imposed.	
	C4 Building design needs to be compatible with surrounding area.	The compatibility of the proposed building design has been discussed under the assessment of the Clause 4.6	No
	<p>C5 The non-residential component of buildings that adjoin residential zones should comply with the Building Height Plane.</p>  <p>Figure: F8.1: Building Height Plane</p>	The proposal complies with the building height plane.	Yes

Canterbury Development Contributions Plan 2013 (Contributions Plan 2013)

The Canterbury Development Contributions Plan 2013 applies to the site and if the application was approved would attract a s.7.12 contribution.

Planning agreements [section 4.15(1)(a)(iia)]

There are no planning agreements applicable to the proposed development.

The regulations [section 4.15(1)(a)(iv)]

The proposed development is not inconsistent with the provisions of the Environmental Planning and Assessment Regulation, 2000.

The likely impacts of the development [section 4.15(1)(b)]

Having regard to the height breach, breach to the floor space ratio, lack of onsite car parking and traffic implications, the proposal will result in unacceptable impacts on the subject site and on the locality. The proposal is therefore not supported.

Suitability of the site [section 4.15(1)(c)]

Although, the proposal is a permissible use in the zone pursuant to Clause 35 of the SEPP and the proposal seeks the re-development of an existing educational establishment. The proposed scale and intensification of the site of the site not considered acceptable and would be inconsistent with the future character of the area and result in an adverse impact on the local road network and therefore is not suitable for re-development to the degree proposed for the subject site.

Submissions [section 4.15(1)(d)]

The application was advertised for a period of 21 days from 27 March 2019 to 17 April 2019 consistent with the provisions contained in the Canterbury Development Control Plan 2012 and nearby residents were notified of the development and invited to provide comment.

Council received thirty (34) submissions, two (2) of which are in the form of petitions. Council has also received submissions from the members of the school community and the Local Member of Parliament opposing the proposal.

The submissions are addressed as follows:

Objection: Traffic and insufficient studies being undertaken, 5 minute parking is not realistic for drop off and pick up and there is a lack of off-street car parking provided. People are already parking across neighbours' driveways, with students numbers increasing this will be worsened.

Comment: As noted in the body of this report, Council's assessment with respect to traffic and car parking studies has found that they contain insufficient information and there is insufficient off-street car parking provided on site.

Objection: Existing traffic safety issues around the school will be exacerbated – one child was hit by a car late 2018; and safety in neighbourhood will be compromised with increased traffic to and from the school

Comment: Council's assessment has found that the safety of pedestrians may be at risk with the proposed development.

Objection: Residents of Napier Street can no longer park outside their houses if proposal goes ahead.

Comment: This has been addressed throughout the assessment of this report. Council has found that the proposed car parking re-arrangement in Napier Street is not in accordance with the relevant Australian Standards.

Objection: Traffic and parking shortcomings indicate this is an overdevelopment

Comment: It is agreed that without failsafe solutions to the car parking and traffic issues, the proposal is an overdevelopment of the site.

Objection: Construction Management including asbestos removal and safety of students and access to outdoor play areas during construction stages should be taken into consideration

Comment: The development is being undertaken in stages and much of the demolition, construction management and temporary classrooms and play areas were approved under a Complying Development Certificate that does not form part of this assessment. If the application was to be supported, conditions of consent would be imposed around the removal of hazardous materials from the site.

Objection: *Removal of trees, any trees removed should be replaced by established trees*

Comment: Tree removal from the site was approved under a TPO application that formed part of the Complying Development portion of the development. The proposed landscaping includes new trees. If the application was to be supported, Council would include conditions around the species and minimum pot sized of trees.

Objection: *Height of building – a three story building is not in keeping with the streetscape*

Comment: The height of the proposed building is considered to be excessive as addressed in the body of this report.

Objection: *Lack of community consultation including with parents of children attending the school*

Comment: This application was notified to neighbouring residents with all material associated with the application also being made available at the school's office for convenience of the school community. Council was not party to any community consultation undertaken by the Applicant.

Objection: *The local area is described as safer for pedestrians and traffic however, resident experience does not support this.*

Comment: Council is of the view that a permeant and failsafe solution is required to ensure safety around the school site before the proposal can be supported.

Objection: *The school uses the green space adjacent to it – how will this space be available for the remainder of the community?*

Comment: That part of the reserve adjacent to the school is owned by the Department of Education and forms part of the school. Council has no objections to the shared use of this space along with the remainder of the reserve area.

Objection: *There is unnecessary use of music before morning bell and excessive use of playground announcements currently.*

Comment: An Acoustic Report based on the expected noise projected from the site with the increased number of students was requested from the applicant but not provided. Council is unable to conclude an assessment of the acoustic impacts of the proposed development.

Objection: *There are other opportunities locally for the Department to expand other schools and set-up new schools*

Comment: This is a matter for the Department of Education who undertakes relevant studies around population projections and demand for local schools.

Objection: *Loss of green space as school expands*

Comment: The proposed redevelopment maintains sufficient landscaped areas at the school, including the adjoining reserve area which is owned by the Department of Education.

Objection: The proposal is a significant increase for a school that is located in what is a highly constrained road network with the school bounded by two low density residential cul-de-sacs, a local park and a narrow residential street.

Comment: A roadway linking the two cul-de-sac streets was recommended by Council and has not been pursued by the applicant, leaving this issue outstanding.

Objection: *Travel demand management plans including an education campaign and potential improvements to pedestrian paths will not work for an expansion this size.*

Comment: Details of such management plans have not been provided to Council for assessment however, the traffic and car parking issues brought on by the development particularly on a constrained site such as this, are such that they cannot be resolved purely through management plans.

External Referral:

External Referral	Comments Received
<ul style="list-style-type: none"> Roads and Maritime Services (pursuant to Clause 57(2)(a) of SEPP (Educational Establishments and Child Care Facilities) 2017) 	No objections raised, subject to conditions.
<ul style="list-style-type: none"> WaterNSW (pursuant to Section 91A of the Environmental Planning and Assessment Act 1979) 	The proposal was not classified as integrated development. No further assessment or concurrence was required by WaterNSW.
<ul style="list-style-type: none"> Sydney Water 	No objections raised, subject to conditions.

Internal Referrals:

Internal Referral	Comments Received
Tree Officer	Council's tree officer has granted approval for the removal of trees from the site under the Tree Preservation Order which also included replacement trees.
Resource Recovery	No objections raised from a waste perspective
Traffic Engineer	Council's traffic engineer has raised a number of issues with the proposed development. These comments are outlined under the heading Canterbury Development Control Plan 2012 (Part B1) of this report.
Heritage	The proposal does not result in any heritage impacts

Environmental Health	Council's EHO has requested additional information relating to the recommendations made in the RAP. These reports have yet to be provided to Council for assessment.
Landscape Architect	The proposal is not opposed by Council's landscape architect, subject to conditions.
Community Safety Officer	No objections' raised subject to conditions.
Building	No objections raised, subject to conditions.
Biodiversity Officer	This is discussed in detail under the heading Biodiversity Conservation Act 2016

The public interest [section 4.15(1)(e)]

The approval of the proposed development, would not be in the public interest in terms of the built form and a compliant building will be a positive result in providing a re-development educational establishment. The construction of an internal road to join Napier Street and France Street and allow for drop off and picks up areas with a continuous flow of traffic would be more in line with the public interest and result in a safer function and operation for the school.

CONCLUSION

The Development Application has been assessed in accordance with the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979*, *SEPP (Educational Establishments and Child Care Facilities) 2017*, *SEPP 64 Advertising and Signage*, *SEPP 55 – Remediation of Land*, *SEPP 19 – Bushland in Urban Areas*, *Coastal Management SEPP*, *Canterbury Local Environmental Plan 2012* and *Canterbury Development Control Plan 2012*.

The application seeks approval for re-development of Canterbury South Public School including minor demolition works to landscape areas/hardstand areas and construction of a three storey school with a capacity of 690 students and associated landscape works and realignment of car parking along Napier Street.

The proposed development application was lodged on the 26 February 2019, on behalf of School Infrastructure NSW and is therefore 'Crown Development', with a capital investment value of \$17,401.00.00, the application classifies as Regional Development. Therefore, the matter is referred to the Sydney South Planning Panel.

The proposal seeks to depart from Clause 4.3 relevant to the height standard of 13.586m (59.8% departure) and a departure of Clause 4.4 relating to the maximum floor space ratio of 0.5:1 (0.82:1 proposed) these breaches have been addressed under the provisions of Clause 4.6. The departure has been assessed and it is considered that the breach to the development standard relating to the building height is not acceptable in this circumstance.

Therefore, it is recommended that the Panel support the recommendation to refuse the application as per the reason for refusal outlined below.

As a consent authority, in this instance the Sydney South Planning Panel must not refuse consent to 'Crown Development', except with the approval of the Minister for Planning and Public Spaces. Therefore, it is recommended that the application be referred to the Minister for Planning and Public Spaces with a recommendation for refusal as per the requirements under Section 4.33 of the *Environmental Planning and Assessment Act, 1979*.

RECOMMENDATION

THAT pursuant to Section 4.33 of the Environmental Planning and Assessment Act, 1979, the Sydney South Planning Panel, for the reasons set out below refer the application to the Minister for Planning and Public Spaces for refusal.

1. The Clause 4.6 Request to vary Clause 4.3(2) 'Height of buildings' of the Canterbury Local Environmental Plan 2012 is not well founded and it has not been adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.
2. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy the objectives of Clause 4.3(1) contained in the Canterbury LEP 2012 including:
 - (a) to establish and maintain the desirable attributes and character of an area,
 - (b) to minimise overshadowing and ensure there is a desired level of solar access and public open space,
 - (c) to support building design that contributes positively to the streetscape and visual amenity of an area,
3. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy Clause 4.3 (2) of the Canterbury Local Environmental Plan 2012 relating to 'Height of buildings' and exceeds the allowable height of building of 8.5m.
4. The Clause 4.6 Request to vary Clause 4.4(2) 'Floor space ratio' of the Canterbury Local Environmental Plan 2012 is not well founded and it has not been adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.
5. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy the objectives of Clause 4.4(1) contained in the Canterbury LEP 2012 including:
 - (a) to provide effective control over the bulk of future development,
 - (b) to protect the environmental amenity and desired future character of an area,
 - (c) to minimise adverse environmental impacts on adjoining properties and the public domain,
 - (d) to optimise development density within easy walk of the railway stations and commercial centres.
6. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy Clause 4.4(2) of the Canterbury Local Environmental Plan 2012 relating to 'floor space ratio' and exceeds the allowable floor space ratio of 0.5:1.
7. The proposed development, pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, is unsatisfactory as the amount of traffic being generated by the proposed development will impact on the movement of traffic in the local road network.
8. Pursuant to the provisions of Section 4.15(1)(b) and Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, insufficient information has been provided by the applicant to allow a proper and thorough assessment of the impacts of the proposed development and the suitability of the site for the development.

- a) The reports referenced in the Remedial Action Plan (RAP) have not been provided to Council and therefore the RAP cannot be fully assessed.
 - b) A revised acoustic report taking into consideration the noise associated with the increase of pupils has not been provided. This includes but not limited to noise due to increased traffic and noise from play.
 - c) A hazardous building materials survey has not been undertaken on the structures, to facilitate hazardous building material removal and obtaining clearance certificates, prior to demolition.
 - d) A preliminary acid sulphate soil assessment due to the developments proximity to a class 2 acid sulphate soil area has not been provided to council for consideration.
 - e) A clear demarcation between the staff car parking area (figure 18 of the Statement of Environmental Effects), the new loading dock and enlarged waste storage facility has not been clearly identified.
 - f) The Biodiversity Constraints Report does not provide map identifying the impact area and trees to be removed and/or retained. The clearance footprint needs to be calculated and identify if the area threshold for the Biodiversity Offset Scheme (BOS) (0.25 ha) will then be triggered.
 - g) The Biodiversity Constraints Report has not adequately addressed all three triggers for entry into the Biodiversity Offset Scheme (BOS), the third being a significant impact on a threatened species, population or ecological community listed under the *Biodiversity Conservation Act 2016*. As there are threatened flora species recorded onsite, a test of significance must be completed for these species pursuant to section 7.3 of the *Biodiversity Conservation Act 2016*.
 - h) The Ecological Constraints Report states that 'no native vegetation occurs within the study site'. This does not accord with the species list (Table A1.1) and the statement has not been reviewed accordingly.
 - i) The likelihood of occurrence table (Table A2.2) in the Biodiversity Constraints Report states that further consideration is required for the green and golden Bell Frog, Little Lorikeet, Swift Parrot, Grey-headed Flying-fox, Eastern Bentwing-bat and Large-footed Myotis. However, Tests of Significance have not been completed for these species pursuant to section 7.3 of the *Biodiversity Conservation Act 2016*. Therefore, the likely impacts to the species is unknown.
 - j) The traffic report submitted to Council is insufficient in that:
 - I. Formal Traffic Surveys in the surrounding streets of Canterbury South Public School have not been undertaken;
 - II. Analysis of the traffic impacts on key intersections on the local road network surrounding Canterbury South Public School are required, including modelling of the existing and future development scenarios These have not been provided.
 - III. Origin and destination surveys are required to identify pedestrian routes to and from the site. Appropriate pedestrian facilities and upgrades should be provided to ensure safe pedestrian access to and from Canterbury South Public School. This has not been provided.
 - IV. This proposed location of the bus stop on the south western side of Canton Street is unsafe as it requires students to cross the road to access it.
 - V. Prior to the nomination of a bus stop location, the applicant is required to liaise with the bus company and consult with residents on the streets where the bus routes and bus zones are proposed. The has not been undertaken.
9. The proposed development is unsatisfactory, pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as it does not comply with the provisions of the Canterbury Development Control Plan 2012:

Part B1 Transport and Parking

- I. Insufficient staff car parking has been provided on site and not in accordance with B1.3.1, C1 (Table B1.2).

Part F8 Non-Residential Development in Residential Zones

- II. The proposed re-development will result in an unacceptable adverse impact on the amenity of the residences in the immediate area. The proposed development has not considered minimising these impacts including the construction of the internal road linking Napier and France Street.
 - III. The proposal will result in a built form that is not compatible with the surrounding medium density area
- 10. Pursuant to the provisions of Section 4.15(1)(b) and Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, insufficient information has been provided by the applicant to allow a proper and thorough assessment of the impacts of the proposed development and the suitability of the site for the development.
 - 11. The proposed development is unsatisfactory, pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, providing an undesirable and unacceptable impact on the streetscape and adverse impact on the surrounding built environment.
 - 12. Having regard to the previous reasons noted above, pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, approval of the development application is not in the public interest.