

SYDNEY SOUTH PLANNING PANEL – SUPPLEMENTARY REPORT

Panel Reference	2019SSH008
DA Number	41/2019
LGA	Canterbury Bankstown Council
Proposed Development	Re-development of Canterbury South Public School including construction of a three-storey building with a capacity of 690 students, one-way kiss and drop link road between Napier Street and France Street, expansion of the France Street car park and associated landscape works (Amended Proposal)
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	Seven (7) total - 5 objections, 1 letter of support, 1 request to attend meeting
Recommendation	Approval, subject to conditions
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 (State and Regional Development) 2011 • 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 • Clause 4.6's • Landscape Plan • Green Travel Plan • Traffic Impact Statement • Stage 1 and Stage 2 Environmental Site Assessment • Remediation Action Plan • Addendum to Remediation Action Plan • Acoustic Report • Asbestos Clearance Certificate • Biodiversity Assessment Report • Architectural Building Height Statement • Recommended Conditions
Clause 4.6 requests	<ul style="list-style-type: none"> • Canterbury Local Environmental Plan 2012 (CLEP 2012);

	<ul style="list-style-type: none"> • 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"> • Height of school; • Solar access/overshadowing; • Lack of car parking; • Traffic safety and road network capacity; • Pedestrian safety; • Link Road not wide enough; • Link road speed limits; • Loss of reserve land; • Anti-social behavior and noise; • Loss of trees; • Disabled access and accessibility; • Waste generation and use of materials; and • Why Canterbury South Public School was chosen for significant re-development.
Report prepared by	Haroula Michael – Senior Planner
Report date	24 November 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? Yes
e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

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

Special Infrastructure Contributions

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

SUMMARY REPORT

This supplementary report is the second report on this proposal. This report considers additional information submitted by the applicant in response to the Panel's deferral of the development application on 8 July 2020.

The key issues that need to be considered by the Panel relate to the matters raised in its deferral and these are covered in this report. Assessment of the additional documentation and amended plans against the relevant planning framework and consideration of matters by Council's technical departments has not identified any issues of concern that cannot be dealt with by conditions of consent.

The application is therefore satisfactory when evaluated against Section 4.15 of the Environmental Planning and Assessment Act 1979.

RECOMMENDATION

It is recommended that the Panel approve the application subject to the recommended conditions for which the applicant has been provided a copy and Council is awaiting their concurrence in accordance with section 4.33(1)(b) of the Environmental Planning and Assessment Act, 1979.

PROPOSED DEVELOPMENT

Following the deferral of this application at the Panel meeting of 8 July 2020, the applicant provided amended plans on 9 October 2020. The application now involves:

- 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;
- Inclusion of a one-way kiss and drop link road between Napier Street and France Street, which includes:
 - 11 x kiss and drop spaces;
 - Improvements to pedestrian connectivity to/through the site; and
 - Additional associated landscaping;
- Expansion of the France Street car park from 14 spaces to 27 spaces; and
- Increase student population from 287 to 690 students and staff from 26 to 58.

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 an updated biodiversity assessment report dated 01 October 2020 prepared by Travers bushfire and ecology for consideration with the development application and amended plans.

The biodiversity assessment report was referred to Council's Team Leader Urban Policy and Planning for comment. The biodiversity assessment report submitted with the application with the following two comments;

1. *“On page 21 of the Travers bushfire and ecology report, 5.6.a suggests a 2:1 offset for the removed trees and we believe this should be minimum of 3:1*
2. *The landscape design indicates equal access compliance throughout the school but shows stairs only accessing Pat O'Connor Reserve (see image below). As this area is highly used by the students of the school we recommend that this should also be compliant for equal access.*



Response:

The applicant has provided an amended landscape plan addressing the offset for the removal of trees from 2:1 to 3:1.

In relation point 2, the applicant was advised to review the possibility of an access ramp to provide access from the school down to Pat O'Connor Reserve and ensure there is equitable accessibility for the students and staff.

The applicant has advised that:

"...providing a ramp to the reserve (which has a steep gradient) would be difficult to both construct and to navigate once the ramp terminates on the uneven slope. This would then require additional landscaping within the reserve area to make this space functional as an accessible play area. Preliminary design options did not consider the reserve as a suitable location for an accessible playground or outdoor learning area.

There is an existing pathway from France Street that provides ramp access to the reserve area. Furthermore, the Disability Discrimination Act (DDA) Compliance Report prepared by Metro Building Consultancy submitted to Council has concluded that "the design documentation provided to date has been assessed in respect to the deemed to satisfy requirements of Part D3 and F2 of the Building Code of Australia 2019 (Amendment 1), the Disability Access to Premises Standards 2010, the Disability Discrimination Act (DDA) 1992 and the relevant parts of AS1428.1 2009 and AS1428.4.1 2009".

Council's Building Surveyor has not raised any issues with the accessibility and given access to the park is still maintained via France Street this is considered acceptable.

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)]

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 (State and Regional Development) 2011
- 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

State Environmental Planning Policy (State and Regional Development) 2011

According to SEPP (State and Regional Development) a regional panel may exercise the consent authority functions of Council for the determination of applications included in Schedule 7 for 'Crown development over \$5 million'. The proposal has a capital investment value of \$17,401,00.00 and is involves the redevelopment of an educational establishment. Accordingly, the application is reported to the Sydney South Planning Panel for determination. A determination meeting was held on the 8 July 2020, Councils recommendation was for the Panel to refer the application (being Crown Development) 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. The Panel deferred the matter for the following items to be addressed:

REASONS FOR DEFERRAL

The Panel considered the proposed application material as well as material presented at briefings and the public meeting and representations of the community. The Panel was of the view that there were a broad range of outstanding issues that still need to be addressed, most notably the impacts of increased traffic generation on the safety and amenity of the area.

The Panel therefore resolved to defer consideration of the matter pending provision of additional reports and information to satisfactorily address the following:

- Traffic and parking impacts including consideration of new infrastructure such as Council's proposed link road, extended footpaths, new pedestrian crossings; and behavioural changes such as a Green travel plan and staging of onsite parking to control demand. The Panel is of the view that solutions reliant on behavioural change alone will not be sufficient to address these multifarious issues.
- A finalised RAP and identification of preferred strategy for managing contaminants, hazardous materials and acid sulphate soils.
- An updated acoustic report to address all noise impacts.
- The height, massing and setbacks of the development should be reviewed to better relate to the topography and transition to the east to reduce its impacts.
- A new landscape plan is required.

The applicant should provide the additional material required within 3 months and to the satisfaction of Council. On receipt of a supplementary council assessment report, the Panel will hold another public meeting to determine the matter.

The Applicant has made the following changes to the proposal to address the matters raised in the Panel's deferral:

1. Inclusion of a one-way kiss and drop link road between Napier Street and France Street, which includes:
 - 11 x kiss and drop spaces;
 - Improvements to pedestrian connectivity to/through the site; and
 - Additional associated landscaping;
2. An updated Green Travel Plan.
3. Amendments to the location and height of the proposed Block C classroom building review, including:
 - Increased setback from Pat O'Connor Reserve (10.77m) to accommodate link road and provide increased separation from the reserve (Napier Street setback maintained); and
 - Reduced building height (-0.585m reduction from original proposal) reflecting adjustments to the built form.
4. Expansion of the France Street car park from 14 spaces to 27 spaces;
5. Additional reports relating to the contamination were provided to Council. Council's Environmental Health Officer (EHO) did not raise any further issues.
6. An updated acoustic report was provided, Council's EHO did not raise an objections subject to conditions; and

7. Amended landscaping is proposed to reflect the changes made, including an amended landscape plan.

As outlined in point 3 above, modifications were made to Building C to reduce the overall height, scale and massing. The modifications are outlined in detail below:

The following amendments and responses are made in regard to building height:

- *The roof top plant (and access core) has been relocated away from the centre of the building, removing the elevated mass resulting from the original design;*
- *The clerestory windows have been removed from the roof top to reduce the overall height, and these have been replaced with skylights;*
- *Investigations into stepping the building have found that any change to floor levels would compromise equitable access, with additional ramps required to address any floor level changes and these would then interrupt linkages to the building from the sites interior;*
- *The relocation of the building by 7m to the west increases the setback of the building from Pat O'Connor Reserve, and view corridors between the building and reserve are now screened with the civil work required for the new road as well as the new landscaping proposed in front of it;*
- *The floor to ceiling heights, as well as the roof pitch have all been minimised to be consistent with the Educational Facilities and Standards Guidelines (EFSG);*
- *The lowest point of the roof slope is located along the Napier Street frontage, with the highest point of the roof occurring within the site; and*
- *The new building location and height will not give rise to any overshadowing between 9am and 3pm of neighbouring properties along Napier Street*

On 29 October 2020 a teleconference meeting was held with Council staff, the Applicant, Department of Education and their traffic consultants to discuss the amended proposal and link road.

During this meeting discussions were held if the floor to floor could be further reduced or to consider other options in lowering the building.

The applicant advised that the construction of the school building is required to comply with the Educational Facilities and Standard Guidelines (EFSG) and this requires specific design requirements. The following is an extract from the Applicant's Clause 4.6:

"In regard to building design parameters, the school building is required to comply with EFSG requirements, including the following:

Vertical Dimension for Ceiling Heights:

- *Minimum 2700mm in rooms over 100m² and all classrooms*

Roofing:

- *The roof slope for metal roofing (not including external covered ways) is to be 4° minimum to avoid drainage failure through:*
 - *ponding in the trays and flow restrictions due to sagging of the roof deck purlins, that can be caused by roof loadings mainly during construction*
 - *overflow at side laps during heavy rain when the trough capacity is exceeded at the base of lower pitched roof slopes”.*

As stated above, the proposal has now reduced the elements that were originally proposed on the roof, the building has been setback further from Pat O'Connor Reserve and the roof pitch minimised to 4°, the lowest pitch allowable under the EFSG. The architectural statement submitted with the application to respond to Council's concern with the building height states that *“the floor to floor height of 3.6m has been established as the minimum permissible under EFSG. 2.7m high ceilings are required to all learning spaces and an allowance of 900mm for structural concrete slabs and beams and air conditioning systems is the design minimum”*. The proposal achieves the minimum 2.7m floor to ceiling height.

A detailed assessment of the building height is made below under the heading Clause 4.6 'Exceptions to the development standard'. The proposal as amended satisfies the recommendations in the Panel's deferral.

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 and 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 12.91 metres, which equates to a 51.9% departure. The applicant has provided a written request for exception to a development standard. This has been addressed further in the report.

The building has been setback 10.77metres from Pat O'Connor Reserve and within this separation provided for a kiss and drop link road. The proposal includes a number of landscaping works around the perimeter of the site

- **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. However, the multi-room design 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 and is considered an efficient use of the space to meet the school needs.

- **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.

Given, the introduction of the link road, access to the RE1 Public recreation zone access is provided via new stairs located to the east of the link road or via the existing ramp via France Street.

It should be noted the proposal includes a new school main office (approved under a separate planning process) which can be considered the primary destination for visitors.

- **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 proposal has now incorporated a new kiss and drop link road, increasing the safety around the school.

- **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.

The applicant has provided an acoustic report in this regard and a condition of consent has been included to ensure the recommendations of this report are implemented. It is considered the design of the proposed building provides for appropriate and efficient learning spaces for its target student population. The proposal includes passive solar and ventilation by virtue of the floor plan proposed and it is considered the design provides for appropriate storage and for the provision of services.

- **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**

It is considered the new centrally located green square included in this proposal will be aesthetically pleasing. The design of the structure is considered consistent with this principle regarding achieving a built form that has good proportion and balances composition of elements.

The proposal is consistent with the above principles.

State Environmental Planning Policy 64 – Advertising Signage

The proposed signage was assessed against SEPP 64 against Council's assessment report which was reported to the Sydney South Planning Panel on the 8 July 2020. The proposed modifications do not alter the original assessment and therefore the proposed signage is considered satisfactory against SEPP 64.

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 owned by the Department of Education. This portion of land also forms part of the Pat O'Connor Reserve.

The proposal results in a portion of the link road within the RE1 Public Recreation portion of the site. Council's Team Leader Urban Policy and Planning reviewed the proposal and did not raise any objection to the proposal subject to offset for the removed trees, to be a minimum of 3:1. An updated landscape plan and Biodiversity Assessment Report has been provided which now satisfies Council's requirements for the offset of tree replacement. The Biodiversity Assessment Report states "*The removal of the trees is subject to the replacement planting of eighteen (18) trees to attain a minimum height of ten (10) metres at maturity in a more convenient location within the school grounds. This a replacement ratio of 3:1*".

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, the applicant has provided further information and clarification on the RAP which in part reads:

"...the preferred methods for remediation will be, cap and containment method (Option 3) of remediation will be implemented until all areas of contained fill across the site are exhausted. Noting this option would include the implementation of a long-term Environmental Management Plan (EMP) for the site for ongoing

management of the capping. Any further contaminated excavated material shall be removed from site (option 4)”.

This has been reviewed by council's Environmental Health Officer who raised no further objections, subject to conditions.

State Environmental Planning Policy (Coastal Management) 2018

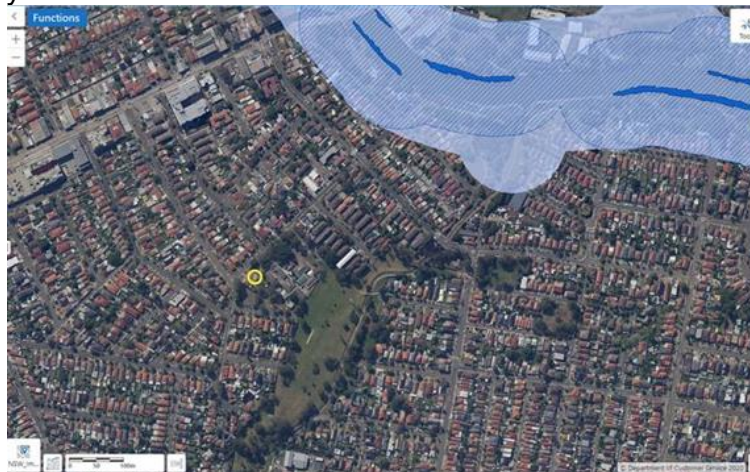
3 Aim of Policy

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

The following clauses of the Canterbury Local Environmental Plan 2012 were taken into consideration:

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	Re-development of Canterbury South Public-School including construction of a three-storey building with a capacity of 690 students, one-way kiss and drop link road between Napier Street and France Street, expansion of the France Street car park and associated landscape works. Link Road (Private road)	No ^[1] Yes
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 12.91m	No ^[2]
4.4 Floor Space Ratio	0.5:1	0.74:1	No ^[3]
4.4A Exceptions to maximum floor space ratio for non-residential development	0.5:1 if the land is zoned R2 Low Density Residential or R3 Medium Density Residential and 0.75:1 if the land is zone R4 High Density Residential	0.74:1(on the R3 zone land)	No
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.	Class 5	Yes. Council's EHO raised no objections to the proposal subject to conditions.

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

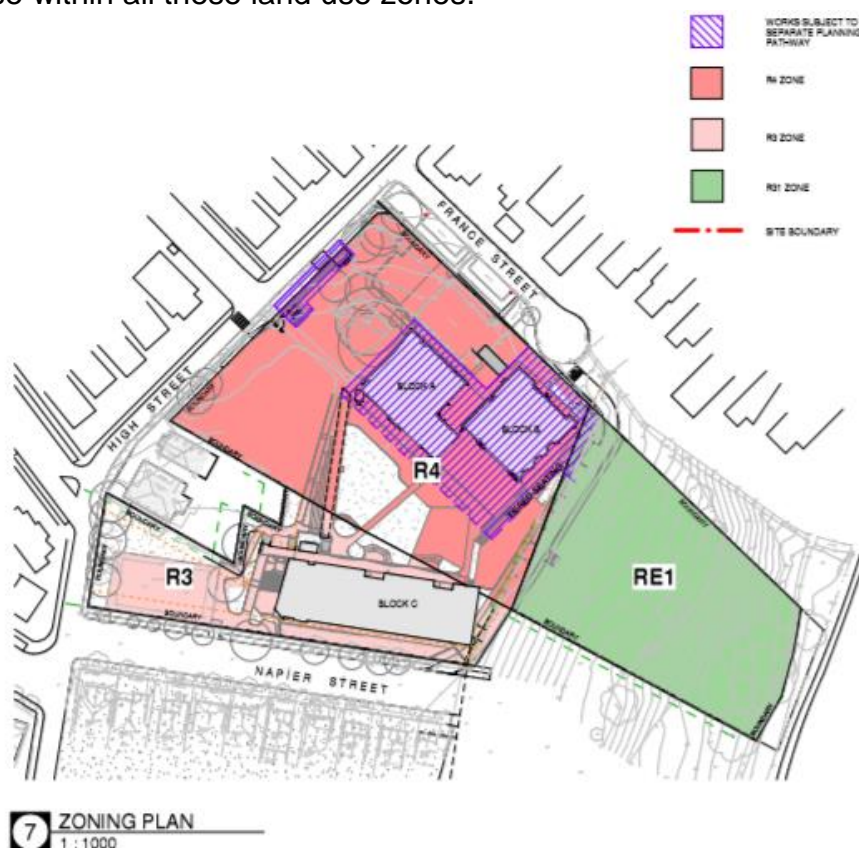
Provision/ Standard	Requirement	Proposal	Complies
6.3 Flood Planning	<p>This clause applies to land at or below the flood planning level.</p> <p>Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:</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 also zoned RE1 Public Recreation. The link road between Napier Street and France Street would fall within the R3 Medium Density Residential, R4 High Density Residential and RE1 Public Recreation. Roads are a permitted use within all these land use zones.



Source: NBRs Architecture

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

The Height of Buildings Map identifies a maximum building height for the site zoned R3 Medium Density Residential 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 12.91 metres, which equates to a maximum variation of 4.41m or 51.9% departure.

An assessment of the development against Clauses 4.6(2), (3) and (4) of CLEP 2012, including extracts from the applicant's submission, is provided below.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Response:

The development standard to be varied is Clause 4.3, Height of Building, which is not expressly excluded from the operation of Clause 4.6.

(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

An extract from the applicant's submission with respect with the building height standard is unnecessary or unreasonable is provided as follows:

“Strict compliance is considered to be unreasonable and unnecessary in the circumstances of this case as the proposal achieves and/or is not inconsistent with the relevant objectives of the development standard in that:

- *The height of the proposed building maintains the desirable attributes and character of an area;*
- *The building heights do not result in any overshadowing of nearby residential properties (to their facades or private open spaces between 9am and 3pm on the winter solstice); and*
- *The building design contributes positively to the streetscape and visual amenity of the area by providing a high quality educational establishment which meets the needs of the local community.*
- *Furthermore, strict compliance would limit the ability to provide high quality cohesive learning spaces and would result in an inefficient use*

of the land and reduce at grade playground space and potentially compromise the inclusion of a through road. Compliance with the building height development standard would result in an inferior design outcome where additional buildings comprising further building footprint would occupy more of the site, thus reducing pervious areas and outdoor play spaces.

- *Investigations into stepping the building have found that any change to floor levels would compromise equitable access, with additional ramps required to address any floor level changes and these would then interrupt linkages to the building from the sites interior”.*

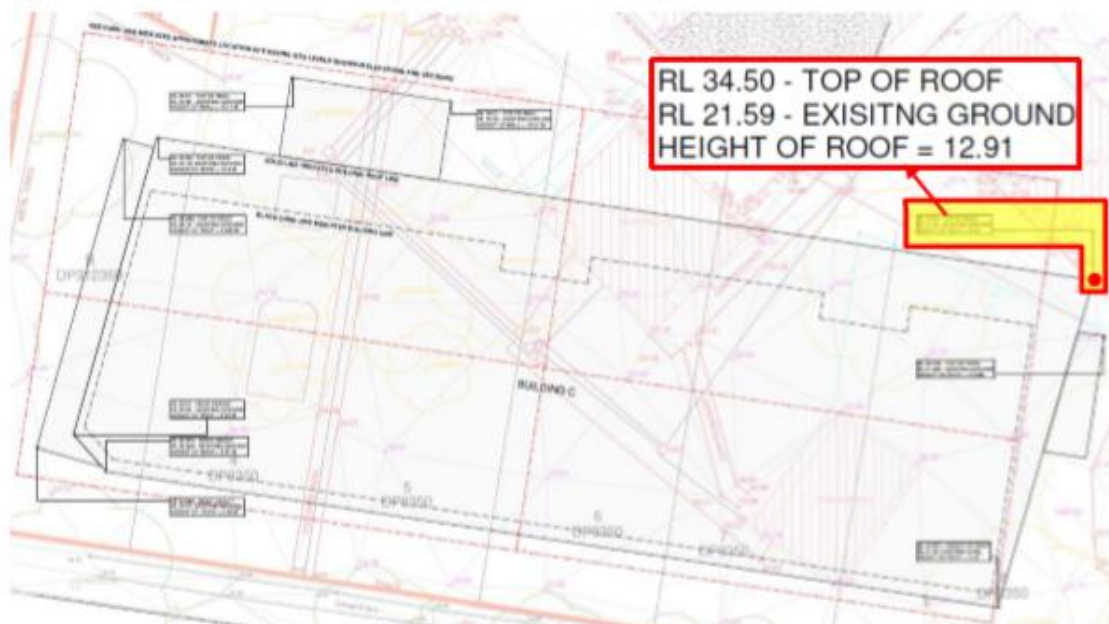
Response:

The subject site has a fall from west to south-east of approximately 2.98metres. The height breach ranges from nil (south-west corner) to 12.91m (north eastern corner), a maximum breach of 4.41m (or 51.9%) and is located to the north eastern corner of Building C (i.e. within the site and closet to Pat O'Connor Reserve) this is shown in figure 1 below. The design of the building will make provisions for a new central “Green Square” (central courtyard) and an additional grassed area along the north west corner of the site (adjacent to 22 High Street, Canterbury). The building height in the south west corner (along Napier Street) is between 8.37m-8.46m which meets the building height under CLEP 2012.

As stated above, the highest breach is located at the north eastern corner of Building C, which adjoins the proposed kiss and drop link road at the end of Napier Street, adjoining Pat O'Connor Reserve. Therefore, the height breach will be less perceivable from Napier Street, reducing the impact on the public domain. The height is generally compliant at the western end of Napier Street which is visible from High Street. The bulk and scale of the building as viewed from Pat Connor Reserve is minimised by the increase setback, roof design and overall design of the building.

Given the building design parameters set by the EFSG requirements, the proposal has sought other measures to reduce the height and visual bulk, by removing the clerestory windows and services from the roof. This will ensure that the floor to ceiling heights within the building are not compromised, maintaining the required amenity to the classrooms.

Figure 1 Extract of Block C Building Height Plan



Source: dfp Planning Consultants (Prepared by NBRs Architecture)

Further to the above, stepping the building to follow the fall off the land will result in steps and changes to the floor levels within the building, impacting on the equitable accessibility throughout the building and requiring additional ramps.

As outlined by the Applicant, the proposed building will not impact the solar access to the properties located to the south of the site, being the residential development along Napier Street. As demonstrated by the Applicant the proposed building will cast a shadow to the front gardens to the dwellings along Napier Street from 8am to 8.30am on the 21 June. Four dwellings along Napier Street are overshadowed along their front façade from 8am to 8.15am on the 21 June.

The shadow diagrams show that by 9am, the dwellings will not be overshadowed by the proposed development and Pat O'Connor Reserve will not be overshadowed by the proposed building until 3pm on the 21 June, therefore providing over 3 hours of solar access to the public open space on the 21 June.

Given the above, the written request has therefore adequately addressed that compliance with the development standard is unnecessary or unreasonable in the circumstances of this case.

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

The Applicant's written request (outlined in part) gives the following reasons that there are sufficient 'environmental planning grounds' to justify contravening the building height development standard:

- *The elements of the school building that exceed the building height development standard are located such that it will not cause adverse impacts on the built environment or the amenity of adjoining properties.*
- *...openings along the southern elevation, these windows in the class rooms have a sill height of 1.2m which limits overlooking from students.*
- *In terms of visual bulk from Napier Street, the floor levels of the building are such that anyone standing in the public domain (at the western end of Napier Street, looking east down Napier Street towards the school campus –would be primarily seeing a building rise of 2 to 2.5 storeys (9.4m total).*
- *In regard to the western (internal) boundary, screen planting is also proposed to this boundary of the school, adjacent to the residential dwellings at Nos. 22 and 24 High Street. Trees proposed along this boundary include *Olea europaea* “Monher” (European Olive) and *Banksia integrifolia* (Coastal Banskia) which have a mature height of approximately 10 metres and 1015 metres respectively.*
- *In regard to the view of the building from the Pat O’Conner Reserve, the building has been pushed back a further 7m from this reserve, and between the reserve and the building a new kiss and drop link road is proposed with retaining wall, safety rail and associated landscaping above ground level. These works will provide a visual ‘break’ to the building and will largely mask the lower levels of the Block C mass.*
- *In regard to building design parameters, the school building is required to comply with EFSG requirement.*
- *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 which meets forecast student demands.*
- *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).*
- *Strict compliance is considered to be unreasonable and unnecessary in the circumstances of this case as the proposal achieves and/or is not inconsistent with the relevant objectives of the development standard in that:*
 - *The height of the proposed building maintains the desirable attributes and character of an area;*
 - *The building heights do not result in any overshadowing of nearby residential properties (to their facades or private open spaces between 9am and 3pm on the winter solstice); and*
 - *The building design contributes positively to the streetscape and visual amenity of the area by providing a high quality educational establishment which meets the needs of the local community”.*

Response:

Council generally agrees with the reasons and justifications provided by the Applicant. As stated above, the proposal will overshadow the front gardens to the dwellings along Napier Street from 8am to 8.30am on the 21 June. Four dwellings along Napier Street are overshadowed along their front façade from 8am to 8.15am on the 21 June.

Under the Education SEPP, an educational establishment is permitted to a building height of 22 metres (with appropriate boundary setbacks increasing as the height increases), the proposal seeks a maximum height of 12.91m. Furthermore, as an educational establishment the proposed development is also restricted to the design standards and guidelines of the EFSG.

The proposed building has been modified to be setback a minimum of 10.77metres from the boundary to Pat O'Connor Reserve and within this setback has made provision of a new kiss and drop link road. The proposed building height has been reduced by 585mm, the roof top plant equipment, access core and clerestory windows have been removed from the roof top, which has reduced the overall height.

In light of the above, the written request has demonstrated that there are sufficient environmental planning grounds to support the proposed variation to the building height.

- (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

Response:

As detailed above, the written request has adequately addressed the matters required in subclause 3 above.

- (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) to establish and maintain the desirable attributes and character of an area,	The proposal is considered to maintain the desirable attributes and character of the area. The bulk and scale of the built form perceives as a two storey building when viewed from the western side of Napier Street, with the exception of the third storey component towards the eastern side of the site. The introduction of the kiss and drop link road, the proposal has resulted in a larger separation from Pat O'Connor Reserve and the addition of landscaping adjacent to the kiss and drop link road will assist in softening the bulk and scale of the built form.

(b) <i>to minimise overshadowing and ensure there is a desired level of solar access and public open space,</i>	<p>As stated above, the proposed building will cast a shadow to the front gardens to the dwellings along Napier Street from 8am to 8.30am on the 21 June. Four dwellings along Napier Street are overshadowed along their front façade from 8am to 8.15am on the 21 June.</p> <p>The shadow diagrams show that by 9am, the dwellings will not be overshadowed by the proposed development and Pat O'Connor Reserve will not be overshadowed by the proposed building until 3pm on the 21 June, therefore providing over 3 hours of solar access to the public open space on the 21 June. Therefore, it is considered that the dwellings along Napier Street and the public open space at pat O'Connor Reserve will maintain a desired level of solar access.</p>
(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 contribute positively to the streetscape and visual amenity of an area. The streetscape will not be impacted by the proposal, the height of the building being adequately screened by landscaping, the use of recessive colours and materials softening the built form and providing a visual interest and substantial setback along the east of the site providing adequate separation.</p>
(d) <i>to reinforce important road frontages in specific localities.</i>	<p>Not applicable to this application</p>

(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, dated 5 May 2020.

Conclusion

As outlined above, it is considered that there are sufficient environmental planning grounds to justify a contravention to the height of buildings development standard, in this instance.

• **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 0.74:1, a variation of 0.24:1 or 48% on the R3 zoned portion of the site alone.

An assessment of the development against Clauses 4.6(2), (3) and (4) of CLEP 2012, including extracts from the applicant's submission, is provided below.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental

planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Response:

The development standard to be varied is Clause 4.4, Floor Space Ratio, which is not expressly excluded from the operation of Clause 4.6.

(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

An extract from the applicant's submission with respect with the floor space standard is unnecessary or unreasonable is provided as follows:

- *“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;*
- *The amount of floor space provided in this building responds to the school's requirements and cannot be reduced any further without compromising the internal layout in line with contemporary education arrangements;*
- *The GFA proposed for the site responds to the Department of Education's legislative requirement to provide school facilities to meet the needs of the population within the school's catchment;*
- *The traffic demands associated with the proposed expansion of the school have been addressed, inclusive of the addition of the new kiss and drop link road. The proposal represents an improvement on traffic and safety outcomes for the site for pedestrians and drivers;*
- *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;*
- *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 0.38:1; and*
- *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:

Council accepts the requirements for the re-development of the existing school and ensuring the GFA meets the future demand in the increase to the student population. The proposal GFA has reduced from the original proposal and this is a result of the inclusion of a kiss and drop link road from Napier Street to France Street.

As discussed earlier, the proposal is not considered to adversely impact the solar access to the dwellings along Napier Street and the proposal will result in some overshadowing to a small portion of Pat O'Connor Reserve, however this occurs from 3pm on the 21 June. Therefore, Pat O'Connor Reserve will receive more than three hours of solar access on the 21 June. Therefore, taking into account the R3 and R4 zoned land of the school, and the proposed gross floor area across the two sites, the FSR would equate to 0.38:1.

Therefore, compliance with the floor space ratio development standard is not unreasonable or unnecessary in the circumstances of the case.

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

The Applicant's written request gives the following reasons that there are sufficient 'environmental planning grounds' to justify contravening the floor space ratio development standard:

"The objectives of the floor space ratio standard in Clause 4.4(1) are:

- (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*

In terms of objective (a), works proposed (under a separate planning approval) within the R4 High Density Residential zoned portion of the site will have a FSR of 0.20:1. The overall FSR when taking into account the R3 and R4 zoned land of the school, and the proposed gross floor area over the site, the re-development of the school will have a FSR of 0.38:1, which is well below the 0.5:1 FSR rate stipulated for the R3 zoned land. It is considered that an overall FSR for the site of 0.38:1 is reasonable and appropriate in this instance.

Building C has been designed to reduce height, bulk and scale and when viewed from the western end of Napier Street, looking north-east, down Napier Street towards the school campus will have the appearance of a 2 to 2.5 storey building due to the levels of the ground floor level. It is considered that the bulk of the proposed development is suitably placed and in keeping with the streetscape within a mixed medium and high density residential zone setting.

In terms of objective (b), the proposal has been designed having regard to the environmental amenity and the desired future character of an area. The proposal has endeavoured to maintain the desirable attributes and character of the area by providing a high quality development, that meets the educational needs of the local residents and community as a whole. It is noted that the local character of the area is generally single dwellings being single or two storeys, and the proposal seeks approval for a 3 storey structure, however, the proposal has been designed to provide an efficient built form responding to contemporary teaching techniques without resulting in adverse impacts.

In terms of objective (c), with respect to the bulk and scale of the development, as demonstrated in the shadow diagrams submitted with the development application, shadows resulting from the proposed development will generally be contained within the bounds of the site with only minor overshadowing of the road corridor and adjoining reserve between 9am and 3pm

The residential properties to the south, across Napier Street are not adversely affected in terms of overshadowing impacts. Privacy/overlooking impacts have been mitigated through design features, sill heights and screen landscaping. In terms of the reduced bulk and scale of the development, Block C has been designed having regard to the character of the area, the streetscape and the overall visual amenity of the locality.

In terms of objective (d), the school is located within 950m or a 10 minute walk to Canterbury train station. The proposed overall density is considered suitable for the site and will meet the future needs of the primary school for the local residents of Canterbury.

Response:

Council generally accepts the reasons provided by the Applicant. It is acknowledged that the proposed variation in the context of the two residential zones will see an FSR that equates to 0.38:1, not taking into account the RE1 Public recreation zone. The proposal seeks the re-development of the existing educational establishment on the site and provides for a more cohesive learning environment while ensuring sufficient open space is provided at grade.

(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

Response:

Council is of the view that the proposal in parts may read as a two storey building, however the proposal is a three storey building particularly when viewed from the

eastern side of Napier Street (looking west). As detailed above, the written request has adequately addressed the matters required in subclause 3 above. The assessment involves a balance between strictly meeting the height and FSR controls and providing a much-needed community facility with adequate open space areas by concentrating built forms at appropriate locations on the site. The proposal now provides the right balance in meeting these requirements and is therefore supported.

(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
<i>(a) to provide effective control over the bulk of future development</i>	The proposed Block C building has been setback further away from Pat O'Connor Reserve. Within this separation is now a kiss and drop link road. As stated by the applicant, Block C has been concentrated to the southern side of the site to allow for the areas around the school to be used for open spaces, in lieu of smaller buildings that would reduce the amount of open space. In the overall context of the site and on balance, the overall FSR of both the R3 zoned land and R4 zone land equates to 0.38:1 and is therefore considered acceptable in this instance.
<i>(b) to protect the environmental amenity and desired future character of an area</i>	The proposal has been amended to take into consideration of the amenity and desired future character of the area. As stated above taking into consideration the R3 zoned and R4 zone the FSR equates to 0.38:1 The proposal is considered to protect the environmental and desired future character of the area.
<i>(c) to minimise adverse environmental impacts on adjoining properties and the public domain</i>	<p>As addressed earlier, the proposal has removed a number of elements from the roof to reduce the overall height of the building.</p> <p>Furthermore, the building has been setback a minimum of 10.77m from Pat O'Connor Reserve.</p> <p>The proposal has demonstrated that the shadow diagrams show that by 9am, the dwellings will not be overshadowed by the proposed development and Pat O'Connor Reserve will not be overshadowed by the proposed building until 3pm on the 21 June, therefore providing over 3 hours of solar access to the public open space on the 21 June. Therefore, it is considered that the dwellings along Napier Street and the public open space at Pat O'Connor Reserve will maintain a desired level of solar access.</p> <p>Therefore, it is not considered that the proposed development and breach to the FSR will not create an adverse environmental impact on the adjoining properties and the public domain.</p>
<i>(d) to optimise development density within easy walk of the railway stations and commercial centres.</i>	Not applicable to this application

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 proposal seeks the re-development of the existing school and will benefit the residents of the Canterbury Bankstown LGA. During the course of the application and assessment, a number of changes were made to the proposal, particularly to Building C. The proposal has also incorporated an internal road to link Napier and France Streets to create a kiss and drop link road and it therefore considered this will increase the safety of 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, dated 5 May 2020.

Conclusion

As outlined above, it is considered that there are sufficient environmental planning grounds to justify a contravention to the floor space ratio development standard, in this instance.

Draft environmental planning instruments [section 4.15(1)(a)(ii)]

On 30 June 2020 the Canterbury Bankstown Local Planning Panel endorsed the Planning Proposal (PP_2019_CBANK_005) to proceed to the Department of

Planning, Industry and Environment for finalisation and making. The Planning Proposal seeks to produce a single set of planning rules and align the Bankstown LEP 2015 and Canterbury LEP 2012 into a consolidated Local Environmental Plan.

The Planning Proposal however does not propose any change to the planning or development provisions relating to this site.

As the Planning Proposal has been exhibited it must be considered under Section 4.15 (1)(a)(ii) of the Environmental Planning and Assessment Act, 1979. The Draft CBLEP also seeks to insert a saving provision "If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies, and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced".

The proposed development will not impact the Draft CBLEP and is considered consistent with the CBLEP.

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

As assessment against the relevant sections of the CDCP 2012 are outlined below. As the application was lodged on the 26 February 2019, the application was assessed against Amendment 3 of the CDCP 2012, the controls relevant at the time of lodgement.

Part A1.9 Savings Provision of the CDCP 2012 states that *"If an application has been made before the commencement of the DCP in relation to land to which the DCP applies, and the application has not been finally determined before that commencement, the application must be determined as if the DCP had not commenced"*.

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:

Standard	Requirement	Proposal	Complies
Car Parking	<ul style="list-style-type: none"> 1 space per 2 staff 	58 staff = 29 spaces required, 27 proposed.	No ^[4]
	<ul style="list-style-type: none"> Visitors: Adequate provision on-street for the dropping off and picking up of students 	Adequate on -street parking provided and the implementation of a kiss and drop link road is now incorporated with the proposed re-development of the school	Yes
Service and Delivery	<ul style="list-style-type: none"> Provide for adequate bus 	A loading bay is provided on-site, in the car park	Yes

	parking facilities	accessed via France St	
Bicycle Parking	<ul style="list-style-type: none"> Staff: 1 space per 10 staff (6) spaces required). 	A condition will be imposed requiring 6 bicycle spaces be provided	Yes, via a condition
	<ul style="list-style-type: none"> Students: Adequate provision of bicycle parking for students. 	Four new bicycle racks are proposed on site, along the Napier Street frontage	Yes

^[4]A condition shall be imposed that once the staff numbers reach 58 that two car parking spaces be provided on site in accordance with AS 2890.1. These spaces can be accommodated adjacent to the loading bay.

The proposal also includes the implementation of a Green Travel Plan (GTP) for the school. If the Applicant can provide a revised GTP, which satisfactorily demonstrates that the two-car parking are not required as the recommendations within the GTP are satisfactorily working then evidence is to be submitted to Council with an application seeking to modify the condition, for consideration as part of the decision as to whether the two additional spaces are to be provided as required by the CDCP 2012.

Part B2 – Landscaping and Part B3 – Tree Preservation

The application provided a landscape plan the proposal was referred to Council's Tree Officer who raised no objections to the proposal subject to conditions.

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

Part B4 – Accessible and Adaptable Design

The access report prepared by Metro Building Consultancy dated was submitted as part of the Development Application. The report concludes that the design generally complies with the relevant standards. 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 have been imposed.

Part B7 – Crime Prevention and Safety

Council's Community Safety and Crime Prevention Officer has reviewed the original 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 Napier 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

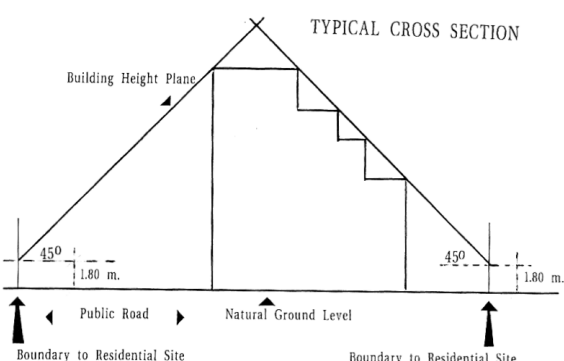
The application was referred to Council's Resource Recovery Officer who did not raise any objections to the proposal, subject to conditions.

Part 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	Yes
	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	The proposal seeks re-development of the existing educational	Yes

	with residential uses) are avoided or minimised.	establishment. The proposal introduced a new kiss and drop link road, which will improve safety around the school	
	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. As the proposal is 'Crown' development, the applicant/Crown must provide their concurrence and approval of any conditions imposed.	Yes
	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	Refer to detailed discussion
	<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, this would be conditioned.

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

There are no planning agreements of draft planning agreements that are relevant to the subject proposal pursuant to Section 7.4 of the Environmental Planning and Assessment Act 1979.

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

The proposed development is consistent with the relevant provisions of the Environmental Planning and Assessment Regulation, 2000.

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

There are no other likely environmental impacts to arise from the proposed development.

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

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 proposal has incorporated an internal kiss and drop link road, which will improve safety around the school.

The application has been assessed under Section 4.15 of the Act, and as demonstrated throughout the body of this report, the proposal generally complies with the relevant development controls.

Submissions [section 4.15(1)(d)]

The amended application was advertised from 20 October 2020 until 10 November 2020, 7 submissions were received, including 5 objections, 1 letter of support, 1 request to attend meeting. The objections raised the following concerns:

Submission: Height of School

Response: The proposed school is 12.91m above existing ground level. The maximum height standard in the Canterbury Local Environmental Plan 2012 is 8.5m. The applicant has requested a variation from the height standard and has provided Council with reasons why they think they should be allowed to breach the height control. Council has considered these reasons and assessed the plans and is further discussed above in this report.

Submission: Solar Access / Overshadowing

Response: The application has been assessed against the provisions of the Canterbury Development Control Plan 2012. Council aims to retain at least 3 hours of solar access between 8am and 4pm at midwinter. The proposed redevelopment of the school will not result in overshadowing of nearby properties such that properties receive less than 3 hours at Midwinter.

Submission: Lack of Car Parking

Response: The proposal has been considered against Part C1 of the CDCP 2012. The proposed development now provides for 27 staff car parking spaces which is satisfactory. It is noted that staff numbers can increase up to 58, where 29 staff car spaces will be required, amounting to a shortfall of two spaces on site. A condition has been recommended requiring the two additional staff car spaces be provided on site once the staff numbers reach 58 or that the applicant satisfactorily demonstrate with a revised GTP that the two staff car parking spaces are not required through parking/travel management processes.

Submission: Traffic Safety and Road Network Capacity

Response: Concern was raised that the road network in particular France Street would be unable to cope with the additional traffic from the school. Council's Traffic Section have considered the application and raised no objection to the proposal on road capacity and traffic safety grounds, subject to the imposition of conditions on any consent.

Submission: Pedestrian Safety

Response: Comment was received that a 'pelican', 'zebra' or other type crossing should be provided on the link road in the interests of pedestrian safety. Council's Traffic Section has considered the application and does not consider that a crossing is necessary or appropriate in this instance.

Submission: 'Link Road' not wide enough

Response: A request was made that the link road, which is proposed to be one way, should be double width to allow for better access and potentially two way traffic. The 'link road' has been designed to be compliant with the Australian Standard for single direction travel. Council's Engineers and Traffic Section have considered the application and determined that a single lane road is sufficient for the expected capacity of the school. Furthermore, this will also allow for the traffic flow to enter via Napier Street and exit via France Street without the conflict of two-way traffic.

Submission: 'Link Road' Speed Limits

Response: A request was made that the maximum speed limit along the Link Road be 40km/h. The link road is an internal private road and Council's Traffic Committee has no power to restrict speeds over this road,

however it is recommended that a condition be imposed that a 10km/hr shared zone be displayed.

Submission: Loss of Reserve Land

Response: The Pat O'Connor Reserve Land will remain accessible to the public. A small section of the proposed link road will extend into the RE1 Public Recreation zone portion of the site. This portion of land is minimal and will not impact on the usability of the reserve area which is owned by the Department of Education.

Submission: Anti-social Behaviour and Noise

Response: There are limits to the extent development applications can be used to prevent anti-social behavior. Comments were received that the link road may result in late night noise and disturbance, from parked cars and music. These matters are policing and community safety matters which are outside of the scope of planning.

Submission: Loss of Trees

Response: Council's Tree Officer has considered the application and raised no objection to the loss of any trees in the area. A Revised landscaping plan has been submitted and it complies with the controls of Parts B2 and B3 of the Canterbury Development Control Plan and includes increased replacement planting ratios. Council has also considered the biodiversity impacts of the development, particularly in relation to the Biodiversity Conservation Act and the impact of the development on the Pat O'Connor reserve and determined the proposed development complies with the appropriate requirements.

Submission: Disabled Access and Accessibility

Response: The application has been considered by Council's Building Surveyors who confirm that the proposed development meets the requirements of the Disability Discrimination Act and the Building Code of Australia.

Submission: Waste Generation and Use of Materials

Response: *Council's Waste Section were consulted as a result of this application and raised no objection to the proposal. The reuse of the excavation materials was included within the Waste Management Plan submitted with the application. Council cannot specifically define where the reuse of the materials will occur as this is dependent on a number of factors outside of Council's control.*

Submission: ...never received a satisfactory explanation as to why Canterbury South Public School was chosen for a significant increase in enrolment capacity, particularly when the NSW Government has no current plans to upgrade or redevelop any other schools in my electorate.

Response: This is a matter for School Infrastructure NSW and is not a matter for consideration under section 4.15 of the Environmental Planning and Assessment Act, 1979.

The following comments were received in support of the application and are noted here for completeness:

- *support the formation of a link road,*
- *support the redevelopment of the school.*

One submission received requested to be included in any public meeting for the subject application. The details of this person have been provided to the Panel.

Internal Referrals:

Internal Referral	Comments Received
Tree Officer	No objections' raised subject to conditions.
Resource Recovery	No objections raised from a waste perspective, conditions provided
Traffic Engineer	No objections raised.
Heritage	The proposal does not result in any heritage impacts
Environmental Health	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.
Development Engineer	No objections' raised subject to conditions.
Infrastructure Engineer	No objections' raised subject to conditions
Manager Corporate Projects Property and Investment	No objections' raised subject to conditions

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

The proposed development would not contravene the public interest. The development appropriate responds to the applicable environmental instruments and development controls, and the proposed development would contribute to an upgraded educational establishment that will cater for the needs of the local residents within the Canterbury-Bankstown LGA. The matters raised in public submissions have been satisfactorily addressed.

CONCLUSION

The development application has been assessed pursuant to the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979 and all relevant development control plans, codes and policies. The accompanying Clause 4.6 request to the building height and floor space have been assessed and is concluded that that are well-founded. The assessment involves a balance between strictly meeting the height and FSR controls and providing a much-needed community facility that will service the community now and into the future. The proposal now provides the right balance in meeting these requirements and is therefore supported.

Accordingly, the proposal is recommended for approval subject to conditions.

RECOMMENDATION

It is recommended that the application be APPROVED pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act, 1979 subject to the conditions