

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSCC-38
DA Number	456/2020/JP
LGA	The Hills Shire Council
Proposed Development	Alterations and Additions to St Gabriel's School including Demolition Works, Construction of 2 x 2 Storey Buildings, Amenity Block, Extension to an Existing Building, Construction of Parking, and Installation of Two Pylon Signs over Three Stages.
Street Address	Lot 9 DP 10049, Lot 10 DP 10049, Lot 1 DP 1073292, Lot 51 DP 10049, Lot 50 DP 10049, St Gabriels School for Hearing, 190 Old Northern Road, CASTLE HILL NSW 2154, Gilroy College High School & St Gabriels School, 19-37 Marie Street
Applicant	St. Gabriel's School c/- DFP Planning
Owner	The Trustees of the Roman Catholic Church
Consultant/s	• Town Planner – DFP Planning • Architect – Glendenning Szoboszlay Architects • Acoustics Consultant – Day Design Pty Ltd • Arborist – Naturally Trees • Building Consultant – BCA Logic • Heritage Consultant – Andrew Starr and Associates Heritage Consultants • Landscape Architect – iScape Landscape Architecture • Quantity Surveyor – WT Partnership • Stormwater Engineer – Sparks + Partners • Traffic Consultant – PTC • Waste Management Consultant – Elephants Foot Recycling Solutions
Date of DA lodgement	4 October 2019
Number of Submissions	No submissions received
Recommendation	Approval subject to conditions
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	CIV exceeding \$5 million (\$19,405,100.00) for educational establishments.
List of all relevant s4.15(1)(a) matters	• State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 • State Environmental Planning Policy No. 55 – Remediation of Land • State Environmental Planning Policy No. 64 – Advertising and Signage • The Hills Local Environmental Plan 2012 • DCP Part B Section 2 – Residential • DCP Part C Section 1 – Parking • DCP Part C Section 2 – Signage • DCP Part C Section 3 – Landscaping • DCP Part C Section 4 – Heritage
List all documents submitted with this report for the Panel's	• Clause 4.6 Variation

consideration	
Report prepared by	Justin Keen Senior Town Planner
Report date	15 October 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? <i>e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP</i>	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 (S94EF)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	N/A
Conditions Have draft conditions been provided to the applicant for comment?	Yes

EXECUTIVE SUMMARY

The key issues that need to be considered by the Panel in respect of this application are:

- The application is made under the provisions of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017. The subject site, known as 190 Old Northern Road, Castle Hill, is zoned R2 Low Density Residential pursuant to The Hills Local Environmental Plan (LEP) 2012.
- Clause 4.3 of the LEP prescribes a maximum height of 9 metres for the subject site. The proposed development exceeds the maximum building height by 3.9 metres or 43.3%. The subject application is accompanied by a written request to vary the building height development standard pursuant to Clause 4.6 of the LEP. It is considered that the applicant's request is well-founded and the variation to the development standard can be supported.
- The proposal has been prepared with regard to the design quality principles under Schedule 4 of SEPP (Educational Establishments and Child Care Facilities) 2017. This assessment has found the proposal to be consistent with these design principles.
- The proposed development complies with The Hills Development Control Plan (DCP) 2012 with the exception of the maximum signage dimensions.
- The application was notified for a period of 14 days on two occasions. No submissions were received during the notification periods.

The Development Application is recommended for approval subject to conditions of consent.

BACKGROUND

The subject site is known as St Gabriel's School, which is a school for students with disabilities. The site comprises five (5) separate allotments and is legally described as Lot 1 in DP 1073292 and Lots 9, 10, 50 and 51 in DP 10049. The site is zoned R2 Low Density Residential and includes a local heritage item listed under Schedule 5 of LEP 2012. The subject site has a total area of 113,313.29m², which is shared with Gilroy College. It is noted that the schools are separate campuses which do not share resources. The site area occupied by St Gabriel's School is approximately 30,157m².

The Development Application was lodged on 8 October 2019. The proposal was notified to adjoining and surrounding properties between 16 October 2019 and 6 November 2019. No submissions were received following the notification period. The Sydney Central City Planning Panel was briefed on the Development Application on 20 February 2020.

Requests for additional information were sent on 30 October 2019 and 16 January 2020 regarding planning, engineering, traffic, waste management and fire safety matters. Amended plans and additional information was submitted in response on 22 April 2020. Further information was submitted on 19 June 2020 providing amended architectural plans, stormwater plans, landscape plans and traffic documentation. Further information was submitted on 14 August 2020 regarding landscaping and ecology matters.

The amended plans were re-notified to adjoining and surrounding property owners between 2 September 2020 and 15 September 2020. No submissions were received following the notification period.

DETAILS AND SUBMISSIONS

Owner:	The Trustees of the Roman Catholic Church
Zoning:	R2 Low Density Residential
Area:	113,313.29m ²
Existing Development:	Educational establishment (St Gabriel's School)
Section 7.12 Contribution:	\$194,051.00
Exhibition:	N/A
Notice Adj Owners:	14 days
Number Advised:	37
Submissions Received:	No submissions received.

PROPOSAL

The Development Application seeks consent for alterations and additions to an existing educational establishment (St Gabriel's School). Specifically, the following works are proposed:

- Demolition of the former caretakers dwelling, driveway areas and hardstand/parking areas, and a portion of 'Block A' including the porte cochere,
- Extension of 'Block A' including alterations and additions to the classrooms, staff WC, administration areas, reception, stairs and lift, and a first floor addition to include a library and staff areas,
- Construction of 2 x two storey buildings for secondary school students (Blocks B1 and B2),
- Construction of a new hall/playing court (Block C) with associated amenities and storeroom,
- New playground on the northern side of the school,
- Construction of new parking areas to accommodate 70 car parking spaces, with associated driveways and circulation areas,

- Tree removal,
- Existing demountable classrooms in the north-west corner of the site to be retained permanently,
- Installation of substation, and
- 2 x pylon signs at the front entrance at Old Northern Road.

The construction of the development is intended to be staged as follows (refer to Attachments 4 – 7):

- Stage 1: Demolition works,
- Stage 2: Construction of Blocks B1 and B2,
- Stage 3: Alterations and additions to Block A and construction of car parking, and
- Stage 4: Construction of Block C.

The school currently facilitates 83 primary school students and 20 staff members. The proposed works are intended to increase the capacity of the school to facilitate a maximum of 204 students, specifically comprising 84 primary school students and 120 secondary school students, and 55 full time equivalent staff members. It has been requested that a maximum number of 60 staff members be permitted on-site at any one time.

ISSUES FOR CONSIDERATION

1. Compliance with State Environmental Planning Policy (State and Regional Development) 2011

Schedule 7 of SEPP (State and Regional Development) 2011 specifies the referral requirements to a Planning Panel as follows:

5 Private infrastructure and community facilities over \$5 million

Development that has a capital investment value of more than \$5 million for any of the following purposes—

- (a) air transport facilities, electricity generating works, port facilities, rail infrastructure facilities, road infrastructure facilities, sewerage systems, telecommunications facilities, waste or resource management facilities, water supply systems, or wharf or boating facilities,*
- (b) affordable housing, child care centres, community facilities, correctional centres, educational establishments, group homes, health services facilities or places of public worship.*

The proposed development, being alterations and additions to an existing educational establishment, has a Capital Investment Value of \$19,405,100.00. Accordingly, the proposal requires determination by the Sydney Central City Planning Panel.

2. Compliance with State Environmental Planning Policy No. 55 – Remediation of Land

This policy aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspects of the environment. In accordance with Clause 7 of the SEPP, the consent authority must not grant consent to the carrying out of any development on land unless:

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

- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

The applicant has provided the following in respect to the suitability of the site:

Overall, the site is not considered to have a significant risk of contamination and is considered suitable for the proposed land use without the need for further investigation or remediation. If any unexpected finds (such as fibro material, odours or soil staining) are encountered during site works, the unexpected find will require assessment by MA to determine requirements for additional investigation or remedial action. Where any soil material is to be removed from site, a formal waste classification assessment shall be required in accordance with the NSW EPA Waste Classification Guidelines (2014).

Council's Environmental Health Officer has reviewed the proposal and provided relevant conditions of consent (see Condition 67). In this regard, the proposal is considered to be consistent with the provisions of SEPP No. 55 – Remediation of Land.

3. Compliance with State Environmental Planning Policy No. 64 – Advertising and Signage

Clause 8 of SEPP No. 64 – Advertising and Signage requires that a consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied:

- (a) *that the signage is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and*
- (b) *that the signage the subject of the application satisfies the assessment criteria specified in Schedule 1.*

The objectives of the SEPP are as follows:

- (a) *to ensure that signage (including advertising):*
 - (i) *is compatible with the desired amenity and visual character of an area, and*
 - (ii) *provides effective communication in suitable locations, and*
 - (iii) *is of high quality design and finish, and*
- (b) *to regulate signage (but not content) under Part 4 of the Act, and*
- (c) *to provide time-limited consents for the display of certain advertisements, and*
- (d) *to regulate the display of advertisements in transport corridors, and*
- (e) *to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.*

The character of the locality primarily comprises residential housing, educational establishments and other supporting land uses. The proposed signage identifies the name of the school at the Old Northern Road frontage, providing effective communication in a suitable location. The signage will be of a high quality design and finish. The proposed signage is consistent with the objectives of the SEPP.

SCHEDULE 1 – ASSESSMENT CRITERIA

ASSESSMENT CRITERIA	PROPOSED	COMPLIANCE
1. Character of the Area		
Is the proposal compatible with the	The character of the locality in the	Yes

existing or desired future character of the area or locality in which it is proposed to be located? Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	vicinity generally comprises residential housing, educational establishments and other supporting land uses. The proposed signage identifies the name of the school at the Old Northern Road entrance, providing effective communication in a suitable location. The signage is of a high quality design and finish. The proposed signage will not result in an adverse impact on the amenity of the area.	
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 site contains a heritage item associated with Gilroy College, however the signage is located over 250 metres from the item which is obscured by vegetation and is not visible from the signage location. The heritage item is not impacted by the proposed signage.	Yes
3. Views and Vistas		
Does the proposal obscure or compromise important views? Does the proposal dominate the skyline and reduce the quality of vistas? Does the proposal respect the viewing rights of other advertisers?	The signage is not of a scale or content that would detract from the significance of any views or vistas in the locality.	Yes
4. Streetscape, Setting or Landscape		
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape? Does the proposal contribute to the visual interest of the streetscape, setting or landscape? Does the proposal reduce clutter by rationalising and simplifying existing advertising? Does the proposal screen unsightliness? Does the proposal protrude above buildings, structures or tree canopies in the area or locality? Does the proposal require ongoing vegetation management?	The proposed signs are of a scale which is considered suitable for the use, the size of the site and the road frontage, and will not dominate the streetscape of Old Northern Road.	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? Does the proposal respect important features of the site or building, or both? Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposal is compatible with the scale, proportion and characteristics of the school.	Yes
6. Associated Devices and Logos with Advertisements and Advertising Structures		
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	N/A	N/A
7. Illumination		
Would illumination result in unacceptable glare? Would illumination affect safety for pedestrians, vehicles or aircraft? Would illumination detract from the amenity of any residence or other form of accommodation? Can the intensity of the illumination be adjusted, if necessary? Is the illumination subject to a curfew?	Illumination is proposed. Standard conditions of consent shall be imposed to control illumination. No safety impacts are expected as a result of the illumination.	Yes
8. Safety		
Would the proposal reduce the safety for any public road? Would the proposal reduce the safety for pedestrians or bicyclists? Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The proposed signage will not reduce safety from any public road, for pedestrians and/or cyclists, or reduce safety by obscuring sight lines.	Yes

4. Compliance with State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

This Policy aims to facilitate the effective delivery of educational establishments and early education and child care facilities across the State. Clause 35(1) of SEPP (Educational Establishments and Child Care Facilities) 2017 states that development for the purpose of a school may be carried out by any person with development consent on land in a prescribed

zone. The subject site is zoned R2 Low Density Residential, which is identified as a prescribed zone in accordance with Clause 33 of the SEPP.

The following addresses the clauses of the SEPP relevant to the subject proposal:

(i) Design Quality Principles

Clause 35(6) of the SEPP requires that the consent authority must take into consideration the design quality of the development when evaluated in accordance with the design quality principles set out in Schedule 4 of the SEPP. The applicant has addressed the relevant design quality principles as follows:

Principle 1 – Context, Built Form and Landscape

- *Schools should be designed to respond to and enhance the positive qualities of their setting, landscape and heritage, including Aboriginal cultural heritage. The design and spatial organisation of buildings and the spaces between them should be informed by site conditions such as topography, orientation and climate.*
- *Landscape should be integrated into the design of school developments to enhance on-site amenity, contribute to the streetscape and mitigate negative impacts on neighbouring sites.*
- *School buildings and their grounds on land that is identified in or under a local environmental plan as a scenic protection area should be designed to recognise and protect the special visual qualities and natural environment of the area, and located and designed to minimise the development's visual impact on those qualities and that natural environment.*

Comment:

The school is designed to respond to the setting, landscape and heritage. The proposed alterations and additions will provide a contemporary built form and layout that adequately responds to the setting and context of the site, and provides a built form appropriate for future students. Two storey buildings have been developed to reduce the overall building footprint and enable the retention of landscaping and open space for the students. Landscape works are proposed around the school buildings and car parking areas which will contribute to site amenity and the overall setting.

Principle 2 – Sustainable, Efficient and Durable

- *Good design combines positive environmental, social and economic outcomes. Schools and school buildings should be designed to minimise the consumption of energy, water and natural resources and reduce waste and encourage recycling.*
- *Schools should be designed to be durable, resilient and adaptable, enabling them to evolve over time to meet future requirements.*

Comment:

The school intends to install solar panels to provide energy for the school and minimise energy consumption. Rainwater storage will be provided on site for flushing toilets and watering landscaping. Lightweight internal walls will be used to enable the modification of internal spaces. The intent is to make the building as flexible as possible to allow for future changes in educational requirements. The central shared space / corridor between the

classrooms on the first floor are topped by a two storey volume with clerestory windows on both sides to enable natural ventilation and reduce the reliance on air conditioning.

Principle 3 – Accessible and Inclusive

- *School buildings and their grounds should provide good wayfinding and be welcoming, accessible and inclusive to people with differing needs and capabilities.*
- *Schools should actively seek opportunities for their facilities to be shared with the community and cater for activities outside of school hours.*

Comment:

An Access Report has been submitted with the subject application (refer to Condition 25). An accessible pathway will be provided from the entry point of the site off Old Northern Road to all the school buildings including the administration area. Accessible parking will also be provided outside the administration reception area that will be the main entry point to the school complex. Corridors and stairways have been kept as wide as possible and the building layout is simple for the benefit of the students. Lifts have been provided in central locations to ensure all areas of the school are fully accessible. The new play areas will all be accessible.

Principle 4 – Health and Safety

- *Good school development optimises health, safety and security within its boundaries and the surrounding public domain, and balances this with the need to create a welcoming and accessible environment.*

Comment:

The school grounds are fully fenced. Some of the students using the school have mobility issues and in order to help them move more freely and safely around the development wide external access pathways and wider corridors and stairways have been included in the design. Most of the students arrive by private car or taxi and the drop off area outside the main administration building has been designed so that students can easily and quickly be dropped off undercover at the main access point to the site. The school includes a fully supervised sick bay for use by both primary and secondary students.

Principle 5 – Amenity

- *Schools should provide pleasant and engaging spaces that are accessible for a wide range of educational, informal and community activities, while also considering the amenity of adjacent development and the local neighbourhood.*
- *Schools located near busy roads or near rail corridors should incorporate appropriate noise mitigation measures to ensure a high level of amenity for occupants.*
- *Schools should include appropriate, efficient, stage and age appropriate indoor and outdoor learning and play spaces, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage and service areas.*

Comment:

The new construction has been kept as close to the centre of the site as possible. The closest proposed building to an external site boundary is that to the neighbouring housing development on the eastern side of the site. The remainder of the new structures and play areas are located centrally on the site reducing any issues with building bulk or noise. The proposed Block C Hall & Gym is located centrally on the site well away from all of the site boundaries providing a reduction in any noise due to distance. The school drop off and pick up area and visitor parking is also centrally located helping to reduce any potential disturbance to

the neighbours. The proposed car parking areas are located on the northern boundary away from residential areas to reduce visual and noise impacts on neighbours. The minimum setback of the proposed building to the closest residential property is 11.7 metres.

Principle 6 – Whole of Life, Flexible and Adaptive

- *School design should consider future needs and take a whole-of-life-cycle approach underpinned by site wide strategic and spatial planning. Good design for schools should deliver high environmental performance, ease of adaptation and maximise multi-use facilities.*

Comment:

Lightweight internal walls will be used to enable the modification of internal spaces. The intent is to make the building as flexible as possible to allow for future changes in educational requirements.

Principle 7 – Aesthetics

- *School buildings and their landscape setting should be aesthetically pleasing by achieving a built form that has good proportions and a balanced composition of elements. Schools should respond to positive elements from the site and surrounding neighbourhood and have a positive impact on the quality and character of a neighbourhood.*
- *The built form should respond to the existing or desired future context, particularly, positive elements from the site and surrounding neighbourhood, and have a positive impact on the quality and sense of identity of the neighbourhood.*

Comment:

The proposed buildings will achieve a built form with good proportions and a balanced composition of elements.

All buildings are to be clad in articulated and faceted light weight building materials with a palette of colours intended to convey a positive outlook. Large over hanging eaves are used to protect both the building's external cladding and external access pathways around the buildings. These large overhangs are also intended to convey a sense of protection and safety. The facades are heavily articulated to add interest and depth to the whole composition and to break up the form and massing achieving a more human scale.

Windows puncture the facade to allow large amounts of light into the building and extensive views out of the building. St Gabriel's have requested that calming views of green landscaped areas with trees and plants be provided to provide a positive and calming effect to their students. To maximise this effect the building structure has been split into separate blocks to create courtyards for additional planting and to provide gathering and external teaching spaces.

The overall design of the school building complex and landscape areas will achieve a contemporary aesthetic through a selected palette of materials, shapes, textures, and colours while maintaining an appropriate scale to the adjacent surrounding developments and neighbourhood. This new development with elegant contemporary buildings and landscaping will enhance the amenity of the neighbourhood and be a positive addition to the local area.

(ii) Traffic-Generating Development

Clause 57 of SEPP (Educational Establishments and Child Care Facilities) 2017 requires that for development that involves an educational establishment being able to accommodate 50 or more additional students, and involves an enlargement or extension of existing premises on a site that has direct vehicular or pedestrian access to any road, that the consent authority must:

- (a) *give written notice of the application to Roads and Maritime Services (RMS) within 7 days after the application is made, and*
- (b) *take into consideration the matters referred to in subclause (3).*

Furthermore, 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*
- (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*
 - (ii) *the potential to minimise the need for travel by car, and*
- (c) *any potential traffic safety, road congestion or parking implications of the development.*

Comment:

- The proposal was referred to Transport for NSW (RMS) for comments (refer to Attachment 26). No objection was raised subject to conditions of consent (refer to Condition 4).
- The proposal has been reviewed by Council's Subdivision Engineer and Traffic Engineer, who have not raised any potential traffic safety, road congestion or parking implications for the proposed development. The proposal complies with the required amount of on-site parking in accordance with Council's DCP.

5. Compliance with LEP Savings Provisions

The Hills Local Environmental Plan 2019 came into force on 6 December 2019. Clause 1.8A(1) of LEP 2019 states the following:

- (1) *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.*

As the subject application was lodged prior to the gazettal of LEP 2019, the application shall be determined as if LEP 2019 had not commenced. Accordingly, the application will be determined in accordance with LEP 2012.

6. Compliance with LEP 2012

(i) Permissibility

The subject site is zoned R2 Low Density Residential under LEP 2012. The proposed alterations and additions to the existing educational establishment are permissible with consent. It is noted that the applicant has been made pursuant to SEPP (Educational Establishments and Child Care Facilities) 2017 which also permits educational establishments in the R2 Low Density Residential zone.

(ii) Compliance with LEP 2012 – Zone Objectives

The objectives of the R2 Low Density Residential zone are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provides facilities or services to meet the day to day needs of residents.*
- *To maintain the existing low density residential character of the area.*

Comment:

It is considered that the proposed alterations and additions provide for a land use (being an educational establishment for children with disabilities) that meets the day-to-day needs to residents in the locality. Furthermore, the expansion allows the school to cater for high school students, enrolments for which are in demand in the locality. The development has considered the low density character of the area and provides a two storey form in a quality landscaped setting, whilst also providing the for access requirements for the students.

(iii) LEP 2012 – Development Standards

The following addresses the principal development standards of the LEP relevant to the subject proposal:

DEVELOPMENT STANDARD	REQUIRED	PROPOSED	COMPLIANCE
Clause 4.3 – Height of Buildings	9 metres	12.9 metres	No, refer to discussion below
Clause 4.6 – Exceptions to Development Standards	Exceptions will be considered subject to appropriate assessment.	A variation to Clause 4.3 – Height of Buildings is proposed and is addressed below.	Yes, refer to discussion below.
Clause 5.10 – Heritage	Heritage assessment required on land within the vicinity of a heritage item	Satisfactory – heritage assessment discussed below.	Yes, refer to discussion below.

a) Variation to Building Height

The site is subject to a maximum building height of 9 metres as shown on the Height of Buildings map under Clause 4.3 of LEP 2012. The proposed development exceeds the maximum building height by 3.9 metres or 43%.

The applicant has submitted a written Clause 4.6 Variation request to vary the building height standard (refer to Attachment 25). Clause 4.6 allows consent to be granted for development even though the development contravenes a development standard imposed by the LEP. The clause aims to provide an appropriate degree of flexibility in applying certain development standards to achieve better outcomes for and from development.

Clause 4.6 – Exceptions to Development Standards states:

- (1) *The objectives of this clause are as follows—*
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*

- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (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.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless—*
 - (a) *the consent authority is satisfied that—*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Planning Secretary has been obtained.*
- (5) *In deciding whether to grant concurrence, the Planning Secretary must consider—*
 - (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - (b) *the public benefit of maintaining the development standard, and*
 - (c) *any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.*
- (6) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if—*
 - (a) *the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
 - (b) *the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*
- (7) *After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).*
- (8) *This clause does not allow development consent to be granted for development that would contravene any of the following—*
 - (a) *a development standard for complying development,*
 - (b) *a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*

- (c) clause 5.4,
- (ca) clause 6.2 or 6.3,
- (cb) clause 7.11.

In determining the appropriateness of the variation request, a number of factors identified by the Applicant have been taken into consideration to ascertain whether the variation is supportable in this instance. They include:

- *The elements of the school buildings that exceed the building height development standard are located such that they will not cause adverse impacts on the built environment or the amenity of nearby properties. Specifically, the residential properties to the east of the school on San Giorgio Circuit, are not significantly adversely affected in terms of overshadowing impacts and any privacy/overlooking impacts have been mitigated through the design and (existing) screen landscaping (easement). Upper level eastern windows are limited to circulation area (hallway) and a single classroom, the eastern elevation of Block B2 is setback almost 12 metres from the neighbours to the east, whilst Block C (the hall) is setback approximately 60 metres to the eastern neighbours. The school has limited visibility from the public domain.*
- *The development has been designed to link from the existing Block A, and the new Blocks B1, B2 and C which require a continuation of existing ground floor levels to meet the access requirements for the students of St Gabriel's, therefore 'stepping' the buildings is not possible in this instance and ramping would result in an undesirable outcome that does not provide for an efficient use of space. Overall, the development responds to the specific needs of the students of St Gabriel's, including the requirement for gradient levels for access requirements, as well as providing appropriate floor-to-ceiling heights within the school, and clerestory pop-up features which provides natural light to circulation areas, as well as a sense of openness. This is considered to be a good planning outcome.*
- *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 buildings maintains the desirable attributes and is not out of character with the area, specifically Gilroy College to the west of St Gabriel's which has school buildings of various heights, many of which exceed the 9 metre height limit;*
 - *The building heights do not result in any significant overshadowing or loss of privacy of nearby residential properties;*
 - *Due to the siting of the development, the existing landscaping and the significant setback from Old Northern Road, the school is not readily visible from the public domain. Landscaping along Excelsior Avenue screen the development from the south. It is noted that San Giorgio Circuit is a private road, nevertheless, a landscape easement is provided along the eastern boundary, which provides a natural screen to the development. Notwithstanding, the development has been designed to contribute positively to the streetscape and visual amenity of the area; and*
 - *The building will not overshadow any public open spaces or public domain areas.*
- *Furthermore, strict compliance with the building height development standard would limit the ability to provide high quality cohesive learning spaces with the required access requirements. If the buildings were single storey it would result in an inefficient use of the land and reduce at grade open space if located on the northern portion of the site, or would require 'stepping' down if located on the southern portion of the site (which would then require significant ramping to provide access).*

Comment:

The specific proposed building heights for each building is summarised in the table below:

Building	Building Height Development Standard	Maximum Height from Ground Level Existing	Extent of Variation
Block A	9 metres	10.55 metres (Max RL 146.3)	17% or 1.55 metres
Block B1	9 metres	11.75 metres (Max RL 146.5)	31% or 2.75 metres
Block B2	9 metres	12.44 metres (Max RL 146.5)	38% or 3.44 metres
Block C	9 metres	12.9 metres (Max RL 142.3)	43% or 3.9 metres

The non-compliant elements are primarily limited to the roof form of Blocks A, B1 and B2, which are designed to facilitate clerestory windows to provide natural light to circulation areas, and Block C, which is centrally located and exceeds the building height due to the existing topography of the site. Figure 1 depicts the maximum 9 metre building height plane, and the elements of the buildings which exceed the maximum building height development standard.

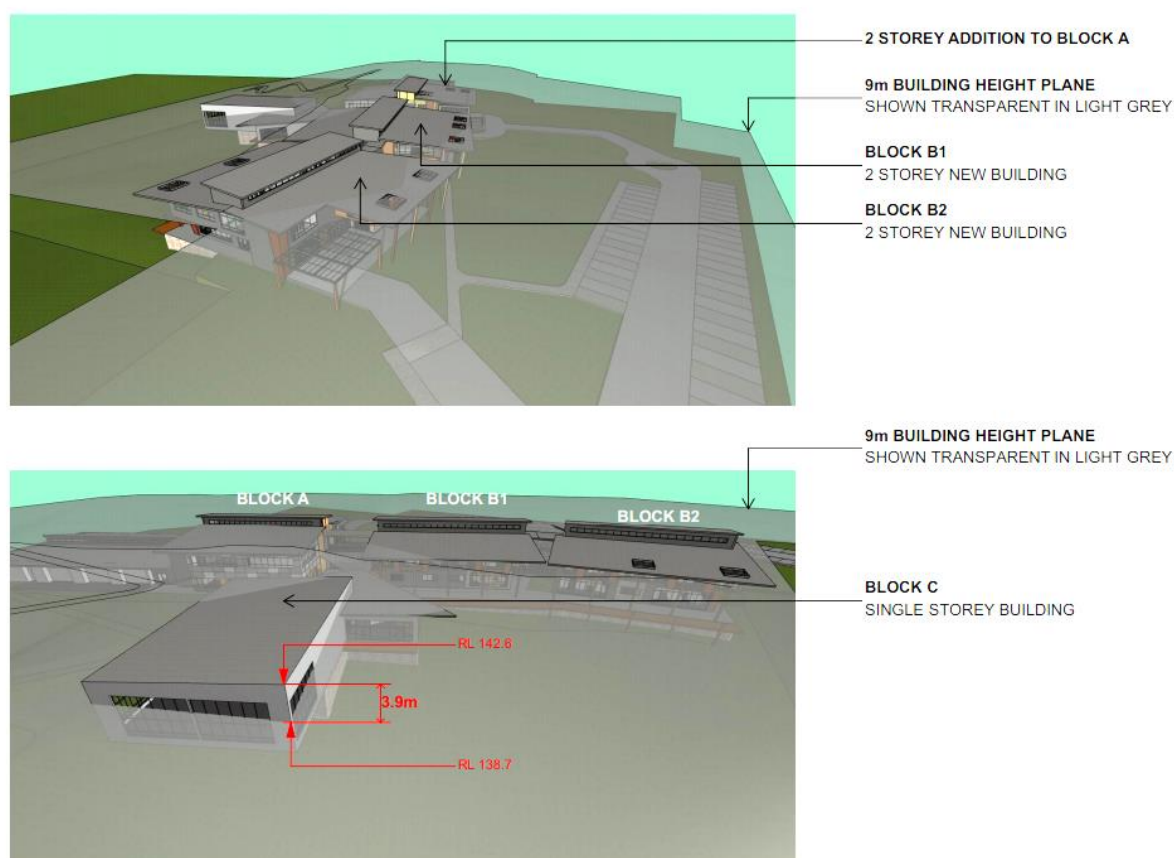


Figure 1 – Building height plane indicating exceedance to height standard

Pursuant to Clause 4.6(2) of LEP 2012, consent may be granted for development even though the development would contravene a development standard prescribed by an environmental planning instrument. The maximum building height is not expressly excluded and thus the clause can be applied in this instance.

Has the applicant's submission addressed the relevant criteria?

Pursuant to Clause 4.6(4)(a) of LEP 2012, consent can only be granted if the consent authority is satisfied that the applicant's written request to vary the development standard has addressed the criteria of Clause 4.6(3) of LEP 2012. The application is supported by a detailed submission addressing the provisions of Clause 4.6 of LEP 2012 (refer to Attachment

25). The submission is considered with regard to the criteria of Clause 4.6(3) of LEP 2012, as follows:

- *That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case*

In accordance with the NSW LEC findings in the matter of *Wehbe v Pittwater Council*, one way in which strict compliance with a development standard may be found to be unreasonable or unnecessary is if it can be demonstrated that the objectives of the standard are achieved, despite non-compliance with the development standard. The objectives of Clause 4.3 Height of Buildings of LEP 2012 are:

- *To ensure the height of buildings is compatible with that of adjoining development and the overall streetscape,*
- *To minimise the impact of overshadowing, visual impact, and loss of privacy on adjoining properties and open space areas.*

The development standard for building height and the development controls for building design, solar access and privacy have been considered with respect to the merits of a variation pursuant to Clause 4.6.

The development has been designed to consider the low density residential context of the immediate locality, specifically the adjoining residential neighbours to the east of the site, as well as the Gilroy Catholic College school campus to the west. The scale of the development has appropriate setbacks and landscaping. The proposal will not result in any unacceptable overshadowing or privacy impacts beyond a development which achieves compliance with the height control. It is noted that the building height development standard is primarily intended to guide residential developments. However, as the alterations and additions are for an existing educational establishment, a departure to the maximum height for the site in this location will have negligible impacts on residential or streetscape amenity.

The non-compliant elements of the proposed development will not result in unreasonable overshadowing impacts or increased adverse amenity impacts to adjoining residential properties or the public domain beyond that of a development compliant with the building height, with adjoining properties able to achieve adequate solar access as result of the separation distances of adjoining development. The proposed bulk and scale is compatible with the existing and desired future character of the site.

The applicant's written submission has satisfactorily demonstrated that the proposal will achieve consistency with the objectives of the building height development standard, and as such strict compliance is considered to be unreasonable and unnecessary in the circumstances of this application.

- *That there are sufficient environmental planning grounds to justify contravening the development standard.*

The applicant's submission states that the elements of the built form which exceed the maximum building will not result in unreasonable impacts on the built environment or the amenity of nearby properties. In particular, the proposal will not be unreasonably impacted in respect to overshadowing, privacy and bulk and scale. The submission further states that the building height non-compliance allows for the orderly use of the land, which has the capacity to accommodate a high-quality contemporary educational facility that suits the needs of school. The development is specifically designed for the needs of the students of St Gabriel's, including access requirements and appropriate floor-to-ceiling heights.

It is considered that the applicant's justification for non-compliance satisfactorily demonstrates that there are sufficient environmental planning grounds to justify contravention of the 9 metre maximum building height development standard. It is considered that the applicant's written request has satisfactorily addressed the requirements under Clause 4.6(3) of LEP 2012.

Is the proposal in the public interest?

Under the provisions of Clause 4.6(4) of LEP 2012, consent must not be granted to a proposal that contravenes a development standard unless that proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is to be carried out. The Clause 4.6 written submission has demonstrated that the objectives of the standard are achieved as addressed above.

The objectives of the R2 Low Density Residential zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provides facilities or services to meet the day to day needs of residents.*
- *To maintain the existing low density residential character of the area.*

The departure to the building height development standard does not hinder the development from achieving the objectives of the R2 Low Density Residential zone as it continues to provide a service to meet the needs of the community. The development provides appropriate setbacks and landscaped areas to ensure adequate amenity to adjoining properties and users of the development and therefore results in an appropriate streetscape outcome. Enforcing compliance with the development standard would restrict a development that would otherwise be appropriate on the site.

Accordingly, the variation to the development standard can be supported for the following reasons:

- The Applicant's request is well-founded,
- The proposed variation results in a development that is consistent with the objectives of Clause 4.3 Height of Buildings and the R2 Low Density Residential zone objectives,
- Compliance with the standard is unreasonable and unnecessary in this instance and there are sufficient environmental grounds to justify the contravention, and
- The proposed development will be in the public interest because it is consistent with the objectives of the development standard and the objectives for the development within the relevant zone.

Has Concurrence Been Obtained?

Pursuant to Clause 4.6(4)(b) of LEP 2012, development consent must not be granted to a development that contravenes a development standard unless the concurrence of the Secretary has been obtained. In accordance with Planning Circular PS18-003 (dated 21 February 2018) issued by the NSW Department of Planning, the Secretary's concurrence may be assumed in this instance as the application relates to a development standard within an EPI that adopts Clause 4.6 of the Standard Instrument.

Conclusion

The Clause 4.6 written request has adequately demonstrated that the proposed development is consistent with the objectives of Clause 4.3 'Height of Buildings' and the R2 Low Density Residential zone. The variation to building height is compatible with adjoining development

and will not cause unreasonable impacts upon the amenity of adjoining properties. The submission has demonstrated that the development standard is unnecessary in this instance and there are sufficient environmental grounds to justify the contravention. In this instance, it is considered that the proposal meets the objectives of the height standard and is in the public interest. In this regard, the variation can be supported.

The applicant has addressed Clause 4.6(3) by demonstrating that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

b) Heritage

The objectives of Clause 5.10 Heritage Conservation of LEP 2012 are:

- *To conserve the environmental heritage of The Hills,*
- *To conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- *To conserve archaeological sites,*
- *To conserve Aboriginal objects and Aboriginal places of heritage significance.*

The overall includes a local heritage item listed under Schedule 5 of LEP 2012, being item 153. The heritage item is located on the Gilroy College Campus (refer to Figure 2 below).

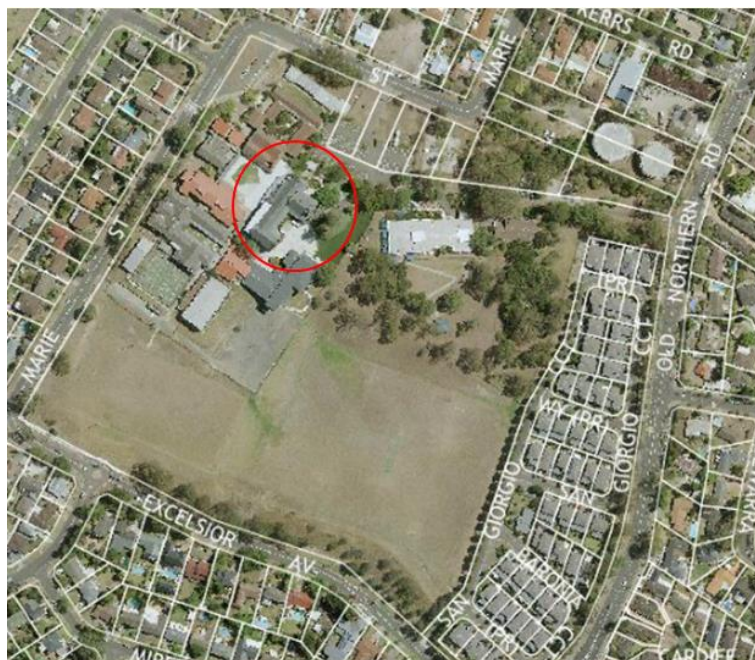


Figure 2 – Location of Heritage Item

The application is supported by a Heritage Impact Statement, prepared by Andrew Starr and Associates Heritage Consultants, which outlines the extent of the impact on the heritage item.

Council's heritage inventory sheet No. 153 provides the history of the heritage item as follows:

"The land on which the building stands was originally granted to Thomas Bradley in 1799. The house, called Southleigh, was built prior to 1923, probably on a 19th century subdivision of the land to provide villa estates. Part of this estate was subdivided again in 1922 into 36 half acre lots. Large modifications and additions have been made post 1922, possibly as late as the 1970s."

The heritage inventory sheet provides the following description of the heritage item:

"The main building (now Gilroy College) is built of a dry pressed face brick, with gabled slate roof. This is a post 1922 addition to the original house. Other additions to the south. Arched brickwork tower and gables dominate building forms. Picturesque setting on well treed ridge. Two large Norfolk Island pines symmetrical about front entrance. Large Bunya pines to garden and along driveway and two in Maree Street. Major trees surround building and line the driveway (no longer in use)."

Comment:

Council's Forward Planning team have reviewed the proposal in respect to heritage. The proposal is located an appropriate distance, being approximately 50 metres, from the heritage listed building and is considered to be of an appropriate bulk and scale. Additionally, it is acknowledged that the existing buildings and fencing partially obscure existing views to the heritage building from Old Northern Road and Marie Street. Therefore, the proposed built form and materials are considered appropriate from a heritage perspective. The proposal will result in the removal of some existing trees and shrubs, as detailed in the Landscape Plan. No objection is raised with the proposed landscaping from a heritage perspective. The proposal is generally considered appropriate from a heritage perspective and no objection is raised.

7. Compliance with DCP 2012

DCP 2012 does not provide specific controls which relate directly to educational establishments. Notwithstanding, a merit assessment against the applicable controls is considered necessary to ensure a consistent character with the streetscape and wider locality. Accordingly, the proposal has been assessed against the following provisions of DCP 2012:

- Part B Section 2 – Residential,
- Part C Section 1 – Parking,
- Part C Section 2 – Signage,
- Part C Section 3 – Landscaping, and
- Part C Section 4 – Heritage.

The following addresses the controls of the DCP relevant to the subject proposal:

DEVELOPMENT CONTROL	REQUIRED	PROPOSED	COMPLIANCE
PART B SECTION 2 – RESIDENTIAL			
Building Setbacks	Minimum 10 metres	The proposal has been setback 11 metres from the eastern side boundary, and over 44 metres to the northern boundary. To the south the hall has been setback over 37 meters from the rear fence separating Gilroy College and St Gabriel's. The development is setback over 65	Yes

		metres from Old Northern Road	
Site Coverage	Maximum 60% of site area	Approximately 33% (9,989.5m ²)	Yes
Landscaped Area	Minimum 40% of site area	Approximately 67% (20,168m ²)	Yes
PART C SECTION 1 – PARKING			
Parking	1 space per employee plus 1 space per 8 year 12 students, plus 1 space per 30 students enrolled for visitors and/or parent parking	55 FTE staff members, maximum 60 staff members proposed on-site: 60 parking spaces required 208 students: 7 visitor spaces required 20 x Year 12 students: 3 spaces required Total: 70 parking spaces required, 70 parking spaces proposed	Yes
PART C SECTION 2 – SIGNAGE			
Signage Dimensions	The maximum area of any sign shall be 2.25m ² with dimensions of 1.5 metres x 1.5 metres.	Two pylon signs are proposed with dimensions of 2.6m x 1.7m, and 1.7m x 1.8m.	No, however the proposed signage will not have an adverse impact on the streetscape (refer to discussion below).
Illumination	Signage shall not be illuminated.	Illumination is proposed.	No, however the proposed signage will not have an impact on the amenity of adjoining residential properties (refer to discussion below).

a) Signs in Residential Zones

DCP Part C Section 2 – Signage permits a maximum area of signage of 2.25m² with maximum dimensions of 1.5 metres x 1.5 metres in residential zones. Two pylon signs are proposed with the following dimensions:

- Pylon Sign A: Signage area of 4.42m² with dimensions of 2.6m x 1.7m, and
- Pylon Sign B: Signage area of 3.06m² with dimensions of 1.7m x 1.8m.

The applicant has provided the following justification in support of the variation:

The signs do not comply with the DCP requirements, however they are considered acceptable in this instance as they are typical of signage that is provided for schools. Two signs are

provided and are orientated in such a manner to notify visitors arriving from Old Northern Road to the north, and from the south. Furthermore, the entrance is located on a classified road, therefore it is considered that the signage is not out of scale to the road reserve.

Comment:

The relevant objectives of this clause of the DCP are:

- *To permit an approved use to adequately identify their premises while maintaining the residential character of the area.*
- *To ensure that business and building identification signs are appropriate to the size and scale of the activity conducted on the property.*
- *To ensure that business and building identification signs do not detract from any residential area by requiring the size, shape, materials and location of the signage to complement the visual character of the surrounding area.*

The proposed signage helps to identify an existing approved educational establishment where existing signage is present. The business identification sign is seen as a necessary component of a school by helping identify the site from the public domain and for those visiting the site. Whilst the site is located within a residential area, the sign is not unreasonable in terms of scale and remains sensitive to the amenity of surrounding residents.

b) Illumination

DCP Part C Section 2 – Signage requires that signage in residential zones shall not be illuminated. The proposed pylon signs will be illuminated. The applicant has provided the following justification in support of the variation:

Signage A provides a digitalised LED display board which will provide details upcoming events and provide community messages associated with the school. Digitalised signage is not uncommon for schools in the area.

Comment:

The relevant objectives of this clause of the DCP are:

- *To ensure that illuminated signage does not adversely impact on adjacent property owners or the amenity of the area.*

The school sign, specifically the lettering of the school name, is to be illuminated. The illumination will not detract from the residential amenity of the area, maintaining amenity to the nearby residential properties. The sign is to be integrated into the building design, whilst proposed landscaping will provide screening to residential properties. Conditions are recommended to ensure illumination is switched off by 9pm daily (refer to Condition 78). Overall, notwithstanding the non-compliances, the proposed sign is found to satisfy the objectives above and is considered acceptable on merit.

8. Submissions

The proposal was notified to adjoining and surrounding properties for 14 days on two occasions. No submissions were received during the notification periods.

9. Internal Referrals

The application was referred to the following sections of Council:

- Ecology,
- Engineering,
- Environmental Health,
- Fire Safety,
- Forward Planning (Heritage),
- Forward Planning (Contributions),
- Landscaping/Tree Management,
- Resource Recovery, and
- Traffic.

Relevant comments are provided below:

ECOLOGY

The application was accompanied by a Biodiversity Development Assessment Report (BDAR). Council's Ecology Officer has reviewed the BDAR report which is considered satisfactory. Accordingly, no objection is raised subject to conditions of consent (refer to Condition 32).

ENGINEERING

No objection subject to conditions of consent.

ENVIRONMENTAL HEALTH

No objection subject to conditions of consent. In respect to acoustic impacts, the applicant has submitted an acoustic report which has been reviewed by Council's Environmental Health Officer. The recommendations of the report are to be implemented as part of the development consent (refer to Condition 17).

FIRE SAFETY

No objection subject to conditions of consent.

FORWARD PLANNING (CONTRIBUTIONS)

No objection subject to conditions of consent.

FORWARD PLANNING (HERITAGE)

No objection subject to conditions of consent.

LANDSCAPING/TREE MANAGEMENT

No objection subject to conditions of consent. The development requires the removal of a number of trees within the building footprint and to facilitate parking and associated civil and stormwater works (refer to Condition 3). Replacement tree planting is required to offset the proposed tree removal (refer to Condition 8).

An amended landscape plan has been requested prior to the issue of a Construction Certificate (refer to Condition 31). This landscape plan recommends that landscape screening is provided within the landscape easement located along the eastern boundary of the site (refer to Attachment 3 for the location of the landscape easement).

RESOURCE RECOVERY

No objection subject to conditions of consent.

TRAFFIC COMMENTS

The consultant's traffic report identifies that the school currently generates 124 vehicle trips per unit during AM and PM peak periods, and will generate 220 vehicle trips during AM and PM peak periods. The development proposal will result in a net increase in the traffic generation potential of the site of approximately 96 vehicle trips during the AM and PM peak

periods. Accordingly, no objection is raised to the proposal subject to compliance with Transport for NSW (RMS) requirements.

10. External Referrals

The application was externally referred to the following agencies:

- Endeavour Energy,
- Sydney Water, and
- Transport for NSW (RMS).

Relevant comments are provided below:

ENDEAVOUR ENERGY

No objection subject to conditions of consent (refer to Condition 5).

TRANSPORT FOR NSW

The proposal was referred to Transport for NSW (RMS). Following the submission of additional information and amended plans, no objection is raised to the proposal subject to conditions of consent (refer to Condition 4 and Attachment 26).

SYDNEY WATER

No objection subject to conditions of consent.

CONCLUSION

The Development Application has been assessed against the relevant heads of consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, SEPP (Educational Establishments and Child Care Facilities) 2017, The Hills Local Environmental Plan 2012 and The Hills Development Control Plan 2012 and is considered satisfactory. The accompanying Clause 4.6 request for variation has been assessed and is determined to be well-founded, and therefore, is supported. Approval is recommended subject to conditions.

IMPACTS:

Financial

This matter has no direct financial impact upon Council's adopted budget or forward estimates.

The Hills Future - Community Strategic Plan

The proposed development is consistent with the planning principles, vision and objectives outlined within "Hills 2026 – Looking Towards the Future" as the proposed development provides for satisfactory urban growth without adverse environmental or social amenity impacts and ensures a consistent built form is provided with respect to the streetscape and general locality.

Local Strategic Planning Statement

The Hills Future 2036 Local Strategic Planning Statement was made on 6 March 2020. The proposal has been considered against the outcomes planned within the Local Planning Strategic Planning Statement and Implementation Plan and are considered to be satisfactory.

RECOMMENDATION

The Development Application be approved subject to the following conditions.

GENERAL MATTERS

1. Development in Accordance with Submitted Plans (as amended)

The development being carried out in accordance with the approved plans and details submitted to Council, as amended in red, stamped and returned with this consent.

The amendments in red include:

- The balustrades associated with the ground floor landing along the eastern elevation of Block B2 shall have a minimum height of 1.5 metres above finished floor level to ensure privacy is maintained to adjoining residential properties.
- On the eastern elevation of Block B2, the upper floor windows facing east associated with the shared space shall have a minimum sill height of 1.5 metres, or utilise obscure glazing for the portion of the window up to 1.5 metres above finished floor level to ensure privacy is maintained to adjoining residential properties.

REFERENCED PLANS AND DOCUMENTS

PROJECT NO.	DESCRIPTION	DRAWING NO.	REVISION	DATE
1336	Site Management Plan 1	A110	04	17/04/2020
1336	Site Management Plan 2	A111	03	17/04/2020
1336	Site Management Plan 3	A112	03	17/04/2020
1336	Site Management Plan 4	A113	01	17/04/2020
1336	Existing and Demolition Plan	A120	05	17/04/2020
1336	Proposed Site Plan and Staging Plan	A130	05	17/04/2020
1336	Proposed Traffic Plan	A140	02	17/04/2020
1336	Overall Floor Plan	A200	03	01/06/2020
1336	Existing Demountables Site Plan	A210	01	17/04/2020
1336	Existing Demountables Floor Plan	A211	01	17/04/2020
1336	Existing Demountable A Elevation	A212	01	17/04/2020
1336	Existing Demountable B Elevation	A213	01	17/04/2020
1336	Overall Ground	A300	05	08/09/2020

	Floor Plan			
1336	Overall First Floor Plan	A301	04	01/06/2020
1336	Overall Roof Plan	A302	04	01/06/2020
1336	Block A – Ground Floor Plan	A310	03	01/06/2020
1336	Block A – First Floor Plan	A311	03	01/06/2020
1336	Block B1 – Ground Floor Plan	A320	04	01/06/2020
1336	Block B1 – First Floor Plan	A321	04	01/06/2020
1336	Block B2 – Ground Floor Plan	A330	04	01/06/2020
1336	Block B2 – First Floor Plan	A331	04	01/06/2020
1336	Block C – Ground Floor Plan	A340	03	01/06/2020
1336	Site Elevations	A400	04	01/06/2020
1336	Block A – Elevations	A410	03	01/06/2020
1336	Block B1 – Elevations	A420	04	01/06/2020
1336	Block B2 – Elevations	A430	04	01/06/2020
1336	Block B2 – Elevations	A431	03	08/09/2020
1336	Block C – Elevations	A440	02	01/06/2020
1336	Block C – Elevations	A441	02	01/06/2020
1336	Sections	A500	03	01/06/2020
1336	Sections	A501	01	08/09/2020
1336	Sections	A502	01	08/09/2020
1336	External Finishes Schedule	A900	02	01/06/2020
123.20	Landscape Master Plan	1	B	22/05/2020

123.20	Landscape Plan 1	2	A	22/05/2020
123.20	Landscape Plan 2	3	B	22/05/2020

No work (including excavation, land fill or earth reshaping) shall be undertaken prior to the issue of the Construction Certificate, where a Construction Certificate is required.

2. External Finishes

External finishes and colours shall be in accordance with the details submitted with the development application and approved with this consent.

3. Tree Removal

Approval is granted for the removal of trees numbered 1, 2, 4, 16a, 16b, 19-21, 40, 42- 44, 50, 75, 76, 84-87, 125-167, 199, 200, 205-218, 221-241, 243, 247-249, 251-253 255-258, 263, 266 and 331 as identified in the Arboricultural Impact Appraisal and Method Statement prepared by Naturally Trees dated 10 August 2020.

All other trees are to remain and are to be protected during all works. Suitable replacement trees are to be planted upon completion of construction.

4. Compliance with Transport for NSW Requirements

Compliance with the requirements of Transport for NSW, provided as Attachment 3 to this consent and dated 9 June 2020.

5. Compliance with Endeavour Energy Requirements

Compliance with the requirements of Endeavour Energy, dated 5 February 2020, as follows:

Network Capacity / Connection

Endeavour Energy's general requirements is for a padmount substation easement to have a minimum size of 2.75 x 5.5 metres and also have the additional restrictions for fire rating (which usually extends 3 metres horizontally from the base of the substation footing, and 6 metres vertically from the same point and also has regard to any structures etc. attached to the building that may spread a fire) and possibly swimming pools and spas (which in this instance does not appear to be applicable). The easement and restriction/s should not affect any adjoining property (unless supported by an appropriate easement / restriction). The substation should be at ground level and have direct access from a public street (unless provided with a suitable easement for right of access).

Submission of documentary evidence from Endeavour Energy confirming that satisfactory arrangements have been made for the connection of electricity and the design requirements for the substation, prior to the release of the Construction Certificate / commencement of works.

The applicant for the proposed development of the site will need to submit an application for connection of load via Endeavour Energy's Network Connections Branch to carry out the final load assessment and the method of supply will be determined (also taking into consideration the potential further development / electricity load of the residue allotments). Depending on the outcome of the assessment, any required padmount substation will need to be located within the property (in a suitable and accessible location) and be protected (including any associated cabling) by an easement and associated restrictions benefiting and gifted to Endeavour Energy. Please refer to Endeavour Energy's Mains Design Instruction MDI 0044 'Easements and Property Tenure Rights'. Further details are available by contacting Endeavour Energy's Network Connections Branch via Head Office enquiries on telephone: 133 718 or (02) 9853 6666 from 8am - 5:30pm or on Endeavour Energy's website under 'Home > Residential and business > Connecting to our network' via the following link:

<http://www.endeavourenergy.com.au/>

Advice on the electricity infrastructure required to facilitate the proposed development can be obtained by submitting a Technical Review Request to Endeavour Energy's Network

Connections Branch, the form for which FPJ6007 is attached and further details (including the applicable charges) are available from Endeavour Energy's website under 'Our connection services'. The response to these enquiries is based upon a desktop review of corporate information systems, and as such does not involve the engagement of various internal stakeholders in order to develop a 'Connection Offer'. It does provide details of preliminary connection requirements which can be considered by the applicant prior to lodging a formal application for connection of load.

Alternatively the applicant should engage a Level 3 Accredited Service Provider (ASP) approved to design distribution network assets, including underground or overhead. The ASP scheme is administered by NSW Energy and details are available on their website via the following link or telephone 13 77 88:

<https://energy.nsw.gov.au/government-and-regulation/legislative-and-regulatory-requirements/asp-scheme-and-contestable-works>

Endeavour Energy is urging applicants /customers to engage with an Electrical Consultant prior to finalising plans to in order to assess and incorporate any required electricity infrastructure.

Network Design

Endeavour Energy's Company Policy 9.2.5 'Network Asset Design', includes requirements for electricity connections to new urban subdivision / development.

Earthing

The construction of any building or structure (including fencing, signage, flag poles, hoardings etc.) whether temporary or permanent that is connected to or in close proximity to Endeavour Energy's electrical network is required to comply with Australian/New Zealand Standard AS/NZS 3000:2018 'Electrical installations'.

In regard to the possible provision of a padmount substation on the site to facilitate the proposed development, Endeavour Energy's Substation Primary Design Section have provided the following comments:

Endeavour Energy's 'Design certification checklist for ASP L3' the design must comply with Endeavour Energy's 'Earthing Design Instruction EDI 001 – Earthing design risk assessment' in which schools, pre-schools, day care centres are regarded as a 'special location'.

The applicant should check with their ASP responsible for the network connection to the site that for any future padmount substation the earthing has been designed to comply with the 'special location' requirements under EDI 100.

Vegetation Management

The planting of large trees in the vicinity of electricity infrastructure is not supported by Endeavour Energy. Suitable planting needs to be undertaken in proximity of electricity infrastructure (including any new electricity infrastructure required to facilitate the proposed development). Only low growing shrubs not exceeding 3.0 metres in height, ground covers and smaller shrubs, with non-invasive root systems are the best plants to use. Larger trees should be planted well away from electricity infrastructure (at least the same distance from overhead power lines as their potential full grown height) and even with underground cables, be installed with a root barrier around the root ball of the plant.

Dial Before You Dig

Before commencing any underground activity the applicant is required to obtain advice from the Dial before You Dig 1100 service in accordance with the requirements of the Electricity Supply Act 1995 (NSW) and associated Regulations.

Removal of Electricity Supply

Approval for the permanent disconnection and removal of supply must be obtained from Endeavour Energy's Network Connections Branch (contact via Head Office enquiries on

telephone: 133 718 or (02) 9853 6666 from 8am - 5:30pm) by Accredited Service Providers (ASP) with the relevant class of Authorisation for the type of work being carried out.

The written request must be submitted to Endeavour Energy using Form FPJ4603 'Permission to Remove Service / Metering by Authorised Level 2 Accredited Service Provider' which must be accompanied by Notification of Service Works (NOSW) forms provided as a result of service work activity performed by a Level 2 ASP. The retailer must also provide written agreement for the permanent removal of supply.

Demolition

Demolition work is to be carried out in accordance with Australian Standard AS 2601—2001: 'The demolition of structures', All electric cables or apparatus which are liable to be a source of danger, other than a cable or apparatus used for the demolition works shall be disconnected. Appropriate care must be taken to not otherwise interfere with any electrical infrastructure on or in the vicinity of the site eg. streetlight columns, power poles, overhead power lines and underground cables etc.

Public Safety

If the applicant has any concerns over the proposed works in proximity of the Endeavour Energy's electricity infrastructure to the road verge / roadway, as part of a public safety initiative Endeavour Energy has set up an email account that is accessible by a range of stakeholders across the company in order to provide more effective lines of communication with the general public. The email address is Construction.Works@endeavourenergy.com.au .

Emergency Contact

In case of an emergency relating to Endeavour Energy's electrical network, the applicant should note the Emergencies Telephone is 131 003 which can be contacted 24 hours/7 days. Endeavour Energy's contact details should be included in the any risk or safety management plan.

6. Planting Requirements

All trees planted as part of the approved landscape plan are to be minimum 75 litre pot size. All shrubs planted as part of the approved landscape plan are to be minimum 200mm pot size. Groundcovers are to be planted at 5/m².

7. Provision of Parking Spaces

The development is required to be provided with a minimum of 70 off-street car parking spaces. These car parking spaces shall be available for off street parking at all times.

8. Replacement Planting Requirements

To maintain the treed environment of the Shire forty four (44) advanced (75 litres) replacement trees from the following list are to be planted elsewhere within the property.

<i>Angophora floribunda</i>	Rough-barked Apple
<i>Corymbia gummifera</i>	Red Bloodwood
<i>Eucalyptus acmenoides</i>	White Mahogany
<i>Eucalyptus creba</i>	Narrow Leaved Ironbark
<i>Eucalyptus fibrosa</i>	Broad leaved Ironbark
<i>Eucalyptus moluccana</i>	Grey Box
<i>Eucalyptus paniculata</i>	Grey Ironbark
<i>Eucalyptus pilularis</i>	Blackbutt
<i>Eucalyptus punctata</i>	Grey Gum
<i>Eucalyptus resinifera</i>	Red Mahogany
<i>Eucalyptus saligna</i>	Sydney Blue Gum
<i>Eucalyptus tereticornis</i>	Forest Red Gum

9. Separate application for other signs

A separate application is required to be submitted to, and approved by Council prior to the erection of any advertisements or advertising structures other than the sign(s) approved in this consent.

10. Protection of Existing Vegetation

Any excavated material not used in the construction of the subject works is to be removed from the site and under no circumstances is to be deposited in bushland areas.

11. Vehicular Access and Parking

The formation, surfacing and drainage of all driveways, parking modules, circulation roadways and ramps are required, with their design and construction complying with:

- AS/ NZS 2890.1
- AS/ NZS 2890.6
- AS 2890.2
- DCP Part C Section 1 – Parking
- Council's Driveway Specifications

Where conflict exists the Australian Standard must be used.

The following must be provided:

- All driveways and car parking areas must be prominently and permanently line marked, signposted and maintained to ensure entry and exit is in a forward direction at all times and that parking and traffic circulation is appropriately controlled.
- All driveways and car parking areas must be separated from landscaped areas by a low level concrete kerb or wall.
- All driveways and car parking areas must be concrete or bitumen. The design must consider the largest design service vehicle expected to enter the site. In rural areas, all driveways and car parking areas must provide for a formed all weather finish.
- All driveways and car parking areas must be graded, collected and drained by pits and pipes to a suitable point of legal discharge.

12. Minor Engineering Works

The design and construction of the engineering works listed below must be provided for in accordance with Council's Design Guidelines Subdivisions/ Developments and Works Specifications Subdivisions/ Developments.

Works within an existing or proposed public road, or works within an existing or proposed public reserve can only be approved, inspected and certified by Council. The application form for a minor engineering works approval is available on Council's website and the application and inspection fees payable are included in Council's Schedule of Fees and Charges.

a) Driveway Requirements

The design, finish, gradient and location of all driveway crossings must comply with the above documents and Council's Driveway Specifications.

The proposed driveway/s must be built to Council's medium duty standard.

Specifically, unless additional driveway crossings are clearly shown on the approved plans, only one driveway crossing is approved/ permitted.

A separate vehicular crossing request fee is payable as per Council's Schedule of Fees and Charges.

b) Site Stormwater Drainage

The entire site area must be graded, collected and drained by pits and pipes to a suitable point of legal discharge.

c) Earthworks/ Site Regrading

Earthworks and retaining walls are limited to those locations and heights shown on the concept engineering plan prepared by Sparks and Partners Consulting Engineers Revision 1. Where earthworks are not shown on the approved plan the topsoil within lots must not be disturbed.

13. Construction Certificate

Prior to construction of the approved development, it is necessary to obtain a Construction Certificate. A Construction Certificate may be issued by Council or an Accredited Certifier. Plans submitted with the Construction Certificate are to be amended to incorporate the conditions of the Development Consent.

14. Demolition Notification

Both Council and any adjoining properties must be notified in writing five days before demolition works commence.

15. Building Work to be in Accordance with BCA

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

16. Demolition Inspections

Before demolition works commence, a pre-demolition inspection must be arranged with Council's Development Certification team. All conditions required to be addressed before works commence must be satisfied. Once demolition works are complete, a post demolition inspection must be arranged with Council's Development Certification team. Fees apply and are to be paid prior to or at the time of booking the inspection. The Development Certification Team can be contacted to book and pay for inspections on 9843 0431.

17. Acoustic Requirements

The recommendations of the Environmental Noise Assessment and Report prepared by Day Design Pty Ltd, referenced as Report Number 6789-1.1R, dated 16 September 2019 and submitted as part of the Development Application are to be implemented as part of this approval. This includes the following:

- The assumptions on which the noise level predictions for the enclosed playing court found in Section 4.5 shall be implemented. The provision of construction and glazing which varies from the listed assumptions will require an amended environmental noise assessment.
- Mechanical plant shall be chosen, designed and attenuated to meet the project specific noise criteria and the noise levels predicted in the Environmental Noise Assessment. The mechanical plant equipment with the lowest sound power levels should be chosen to reduce the amount of acoustic treatment necessary to achieve the noise criteria and nearby receivers.
- A detailed acoustic assessment of the mechanical plant should be undertaken prior to the issue of a construction certificate and submitted to the certifying authority
- Any deliveries, such as food for the canteen and waste collection shall only occur between the hours of 7am and 6pm.
- Any ground maintenance such as leaf blowing or grass cutting shall only occur between the hours of 7am and 6pm.

18. Retention of Trees

All trees not specifically identified on the approved plans for removal are to be retained with remedial work to be carried out in accordance with the Arboricultural Impact Appraisal and

method Statement prepared by Naturally Trees dated 10 August 2020 prepared and the following requirements:

- Indicate clearly (with spray paint) trees approved for removal only
- Establishment of tree protection fencing and additional root, trunk and/or branch protection prior to demolition and site establishment
- Project Arborist to supervise all excavations works proposed within the TPZ
- Monthly inspection of trees by Project Arborist
- Final inspection of trees by Project Arborist prior to the issue of Occupation Certificate

19. Adherence to Waste Management Plan

All requirements of the Waste Management Plan submitted as part of the Development Application must be implemented except where contrary to other conditions of consent. The information submitted regarding construction and demolition wastes can change provided that the same or a greater level of reuse and recycling is achieved as detailed in the plan. Any material moved offsite is to be transported in accordance with the requirements of the Protection of the Environment Operations Act 1997 and only to a place that can lawfully be used as a waste facility. Receipts of all waste/recycling tipping must be kept onsite at all times and produced in a legible form to any authorised officer of the Council who asks to see them.

Transporters of asbestos waste (of any load over 100kg of asbestos waste or 10 square metres or more of asbestos sheeting) must provide information to the NSW EPA regarding the movement of waste using their WasteLocate online reporting tool www.wastelocate.epa.nsw.gov.au.

20. Access and Loading for Waste Collection

Minimum vehicle access and loading facilities must be designed and provided on site in accordance with Australian Standard 2890.2:2018 for the standard 8.8m long Medium Rigid Vehicle (minimum 3.5m clear vertical clearance exception). The following requirements must also be satisfied.

- All manoeuvring areas for waste collection vehicles must have a minimum clear vertical clearance of 3.5m. Any nearby areas where the clear headroom is less than 3.5m must have flexible striker bars and warning signs as per Australian Standard 2890.1 to warn waste collection contractors of the low headroom area.
- All manoeuvring and loading areas for waste collection vehicles must be prominently and permanently line marked, signposted and maintained to ensure entry and exit to the site is in a forward direction at all times and that loading and traffic circulation is appropriately controlled.
- Pedestrian paths around the areas designated for manoeuvring and loading of waste collection vehicles must be prominently and permanently line marked, signposted and maintained (where applicable) for safety purposes.
- The requirement for reversing on site must be limited to a single reverse entry into the designated waste service bay (typical three point turn).
- The designated waste service bay must allow additional space servicing of bins (wheeling bulk bins to the back of the waste collection vehicle for rear load collection).
- The loading area must have a sufficient level of lighting and have appropriate signage such as “waste collection loading zone”, “keep clear at all times” and “no parking at any time”.
- Access to restricted loading areas (i.e. via roller shutter doors, boom gates or similar) must be via scanning from the cab of medium rigid vehicles, remote access or alternative solution which ensures there is no requirement for waste collection contractors to exit the cab.

21. Waste and Recycling Collection Contract

There must be a contract in place with a licenced contractor for the removal and lawful disposal of all waste generated on site. Written evidence of a valid and current collection and disposal contract must be held on site at all times and produced in a legible form to any authorised officer of the Council who asks to see it.

22. Management of Construction and/or Demolition Waste

Waste materials must be appropriately stored and secured within a designated waste area onsite at all times, prior to its reuse onsite or being sent offsite. This includes waste materials such as paper and containers which must not litter the site or leave the site onto neighbouring public or private property. A separate dedicated bin must be provided onsite by the builder for the disposal of waste materials such as paper, containers and food scraps generated by all workers. Building waste containers are not permitted to be placed on public property at any time unless a separate application is approved by Council to locate a building waste container in a public place.

Any material moved offsite is to be transported in accordance with the requirements of the Protection of the Environment Operations Act 1997 and only to a place that can lawfully be used as a waste facility. The separation and recycling of the following waste materials is required: metals, timber, masonry products and clean waste plasterboard. This can be achieved by source separation onsite, that is, a bin for metal waste, a bin for timber, a bin for bricks and so on. Alternatively, mixed waste may be stored in one or more bins and sent to a waste contractor or transfer/sorting station that will sort the waste on their premises for recycling. Receipts of all waste/recycling tipping must be kept onsite at all times and produced in a legible form to any authorised officer of the Council who asks to see them.

Transporters of asbestos waste (of any load over 100kg of asbestos waste or 10 square metres or more of asbestos sheeting) must provide information to the NSW EPA regarding the movement of waste using their WasteLocate online reporting tool www.wastelocate.epa.nsw.gov.au.

23. Construction of Waste Storage Area

The waste storage area must be designed and constructed in accordance with the following requirements. The area must provide minimum storage facility for 6 x 660 litre mobile garbage bins.

- The waste storage area must be of adequate size to comfortably store and manoeuvre the total minimum required number of bins as specified above.
- The layout of the waste storage area must ensure that each bin is easily accessible and manoeuvrable in and out of the areas with no manual handling of other bins. All internal walkways must be at least 1.5m wide.
- The waste storage area must be suitably enclosed.
- The floor of the waste storage area must be constructed of concrete with a smooth non-slip finish, graded and drained to sewer. The rooms must not contain ramps and must be roofed (if located external to the building).
- The waste storage area must have a waste servicing door, with a minimum clear floor width of 1.5m. The door must be located to allow the most direct access to the bins by collection contractors. Acceptable waste servicing doors are single or double swinging doors and roller doors (preferred).
- All doors of the waste storage area, when fully opened, must be flush with the outside wall(s) and must not block or obstruct car park aisles or footways. All doors must be able to be fixed in position when fully opened.
- The waste storage area must be adequately ventilated (mechanically if located within the building footprint). Vented waste storage areas should not be connected to the same ventilation system supplying air to the school buildings.

- The waste storage area must be provided with a hose tap (hot and cold mixer), connected to a water supply. If the tap is located inside the waste storage area, it is not to conflict with the space designated for the placement of bins.
- The waste storage area must be provided with internal lighting such as automatic sensor lights.
- The maximum grade acceptable for moving bins for collection purposes is 5%. Under no circumstance is this grade to be exceeded. It is to allow the safe and efficient servicing of bins.
- The waste storage area must have appropriate signage (EPA approved designs can be found on the NSW EPA website), mounted in a visible location on internal walls and are to be permanently maintained by the site owner(s).
- Finishes and colours of the waste storage area are to complement the design of the development.

Example Bin Measurements (mm)

240L: 735 (d) 580 (w) 1080 (h) 660L: 850 (d) 1370 (w) 1250 (h) 1100L: 1245 (d) 1370 (w) 1470 (h)

24. Maximum Number of Student and Staff Numbers

The maximum number of students attending the school shall not exceed 204 at any one time. The total number of staff/employees on-site shall not exceed 60 at any one time.

25. Compliance with Access Report Requirements

The proposal shall comply with the recommendations of the Access Assessment Report, prepared by BCA Logic, dated 30 August 2019.

26. Clause 94 Upgrade

Block A - Existing school building

Pursuant to clause 94 of the *Environmental Planning & Assessment Regulation 2000*, the following Building Code of Australia (BCA) works must be undertaken with the Construction Certificate works and must be completed prior to an occupation certificate being issued for block A:

- a) Portable fire extinguishers must be provided throughout the existing premises addressing the performance requirements of EP1.2.
- b) Emergency lighting must be provided throughout the premises addressing the requirements of EP4.1
- c) Exit signs and any directional signs as determined appropriate must be provided throughout the premises addressing the performance provisions of EP4.1 and EP4.2.
- d) A review of the fire hydrant system servicing the premises must be undertaken addressing the requirements of EP1.3 of the BCA.
- e) A review of arrangements for egress is to be undertaken to ensure occupants evacuate safely, with doors in a path of travel and exit doors being able to be readily opened, appropriate to DP4 and EP2.2 of the BCA. The review is also to include occupants being provided with a direct connection to a public road at all times.

Existing Demountable Buildings

Pursuant to clause 94 of the *Environmental Planning & Assessment Regulation 2000*, the following Building Code of Australia (BCA) works must be undertaken with the Construction Certificate works and must be completed prior to an occupation certificate being issued:

- a) A certificate of structural adequacy from a suitably qualified structural engineer registered on the National Engineering Register (NER) or with the Building Professionals Board (BPB) verifying that the frame and foundations of the building is structurally adequate and capable of withstanding all loads likely to be imposed on it appropriate to BP1.1 of the BCA.
- b) Portable fire extinguishers must be provided throughout the existing premises addressing the performance requirements of EP1.2.
- c) Emergency lighting must be provided throughout the premises addressing the requirements of EP4.1
- d) Exit signs and any directional signs as determined appropriate must be provided throughout the premises addressing the performance provisions of EP4.2.
- e) Required exit doors in the demountable buildings are to swing in the direction of egress addressing the performance requirements of DP2 of the BCA.
- f) Existing external walls exposed to a fire source feature are to be upgraded to avoid the spread of fire and maintain structural stability during a fire appropriate to CP1 and CP2 of the BCA.
- g) Existing penetrations in external walls that are required to have an FRL are to be upgraded to avoid the spread of fire appropriate to CP8 of the BCA.
- h) The existing travel distances to an exit from the existing premises must be upgraded to ensure conditions in any evacuation route will remain tenable, appropriate to DP4 and EP2.2 of the BCA.
- i) Suitable sanitary facilities are to be provided for the premises appropriate to FP2.1 of the BCA. In this regard, sufficient urinals, pans and washbasins are to be provided appropriate to the number of occupants using the buildings.
- j) All existing floor linings and floor coverings are to be upgraded to ensure fire spread is resisted to limit the production of smoke, heat and toxic gases CP4 and EP2.2 of the BCA.
- k) Existing wall and ceiling linings in the building are to be upgraded to ensure fire spread is resisted to limit the production of smoke, heat and toxic gases appropriate to CP4 and EP2.2 of the BCA.
- l) A review of existing glazing in the premises is to be undertaken so that it is adequate to withstand human impact and not likely to cause injury if broken and marked in a way that will reduce the likelihood of human impact appropriate to BP1.3 of the BCA.
- m) The existing building must be upgraded to comply with BP1.1 of the BCA with regard to resistance to termite actions.
- n) The geometry (risers and goings) of the existing stairway must be upgraded to ensure that occupants can move safely to the building appropriate to DP2 of the BCA.
- o) The slip-resistance of the existing stairway and ramps must be upgraded to comply with DP2 of the BCA.
- p) A review of the existing building must be undertaken to ensure that it is accessible and be provided with suitable sanitary facilities and carparking spaces to comply with DP1, DP2, DP8 and FP2.1 of the BCA.
- q) A review of the existing building is to be undertaken to ensure that the building including its services have features that facilitate efficient use of energy, appropriate to JP1 of the BCA.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

27. Stormwater Management – Upper Parramatta River Catchment Area

Onsite Stormwater Detention (OSD) basin 2 is required to be designed in accordance with Council's adopted policy for the Upper Parramatta River catchment area, the Upper Parramatta River Catchment Trust OSD Handbook.

The stormwater concept plan prepared by Spark and Partners Consulting Engineers Drawing DA4.13 Revision 4 dated 02/04/2020 is for development application purposes only and is not to be used for construction. The detailed design must reflect the stormwater concept plan and the following necessary changes:

- a) As the primary Discharge Control Pit (DCP) will first drain to the secondary DCP the 100 year ARI orifice will need to be equivalent to the sum of the calculated orifice diameter for the extended detention and detention, or alternatively the primary control pit must drain to the outlet pipe directed to the level spreader.

Water sensitive urban design elements, consisting of filter media, are to be located generally in accordance with the plans and information submitted with the application.

Detailed plans for the water sensitive urban design elements must be submitted for approval. The detailed plans must be suitable for construction, and include detailed and representative longitudinal and cross sections of the proposed infrastructure. The design must be accompanied, informed and supported by detailed water quality and quantity modelling. The modelling must demonstrate a reduction in annual average pollution export loads from the development site in line with the following environmental targets:

- 90% reduction in the annual average load of gross pollutants
- 85% reduction in the annual average load of total suspended solids
- 65% reduction in the annual average load of total phosphorous
- 45% reduction in the annual average load of total nitrogen

All model parameters and data outputs are to be provided.

The design and construction of the stormwater management system must be approved by either Council or an accredited certifier. A Compliance Certificate certifying the detailed design of the stormwater management system can be issued by Council. The following must be included with the documentation approved as part of any Construction Certificate:

- Design/ construction plans prepared by a hydraulic engineer.
- A completed OSD Drainage Design Summary Sheet.
- Drainage calculations and details, including those for all weirs, overland flow paths and diversion (catch) drains, catchment areas, times of concentration and estimated peak run-off volumes.
- A completed OSD Detailed Design Checklist.
- A maintenance schedule.

28. Onsite Stormwater Detention – Hawkesbury River Catchment Area

Onsite Stormwater Detention (OSD) basin 1 is to be designed in accordance with Council's adopted policy for the Hawkesbury River catchment area, the Upper Parramatta River Catchment Trust OSD Handbook, with amended parameters for the site storage requirement and permissible site discharge.

The stormwater concept plan prepared by Spark and Partners Consulting Engineers Drawing DA4.11 Revision 4 dated 02/04/2020 is for development application purposes only and is not to be used for construction. The detailed design must reflect the stormwater concept plan and the following necessary changes:

- a) The sump with weep holes provided at the base of the discharge control pit of the OSD must be replaced with a mass concrete benching falling to the invert of the orifice.

Water sensitive urban design elements, consisting of filter media and swales, are to be located generally in accordance with the plans and information submitted with the application.

Detailed plans for the water sensitive urban design elements must be submitted for approval. The detailed plans must be suitable for construction, and include detailed and representative longitudinal and cross sections of the proposed infrastructure. The design must be accompanied, informed and supported by detailed water quality and quantity modelling. The modelling must demonstrate a reduction in annual average pollution export loads from the development site in line with the following environmental targets:

- 90% reduction in the annual average load of gross pollutants
- 85% reduction in the annual average load of total suspended solids
- 65% reduction in the annual average load of total phosphorous
- 45% reduction in the annual average load of total nitrogen

All model parameters and data outputs are to be provided.

The design and construction of the stormwater management system must be approved by either Council or an accredited certifier. A Compliance Certificate certifying the detailed design of the stormwater management system can be issued by Council. The following must be included with the documentation approved as part of any Construction Certificate:

- Design/ construction plans prepared by a hydraulic engineer.
- A completed OSD Drainage Design Summary Sheet.
- Drainage calculations and details, including those for all weirs, overland flow paths and diversion (catch) drains, catchment areas, times of concentration and estimated peak run-off volumes.
- A completed OSD Detailed Design Checklist.
- A maintenance schedule.

29. Construction Management Plan

Prior to the issue of a Construction Certificate, a Construction Management Plan must be submitted to the Principal Certifying Authority for approval. The Construction Management Plan must specifically address each of the following matters:

- Construction traffic (internal).
- Traffic control (external). This needs to consider road closures and delivery routes with respect to the surrounding road network as separately conditioned.
- Public asset protection.
- Dust management as separately conditioned.
- Sediment and erosion control as separately conditioned.
- Stockpiles.
- Noise; outside of standard work hours for float deliveries will need to have written Transport for NSW approval and Council and affected neighbours must be notified in writing.
- Working hours; including plant warming up and/ or noise above conversation levels before the nominated starting time.
- Tree/ vegetation protection.
- Fauna protection, recovery and relocation (including fauna habitat)

30. Erosion and Sediment Control/ Soil and Water Management Plan

The detailed design must be accompanied by an Soil and Water Management Plan (SWMP) prepared in accordance with the Blue Book and Council's Works Specification Subdivision/ Developments.

A SWMP is required where the overall extent of disturbed area is greater than 2,500 square metres

A SWMP requires both drawings and accompanying commentary (including calculations) addressing erosion controls, sediment controls, maintenance notes, stabilisation requirements and standard drawings from the Blue Book.

31. Landscape Plan

An amended Landscape Plan (to scale) for the landscaping of the site is to be prepared by a suitably qualified landscape architect or horticulturalist and submitted to the satisfaction of Council's Manager - Environment and Health. The plan must contain:

- r) site boundaries and dimensions surveyed;
- s) north point, and scale (1:200 desirable);
- t) existing and proposed levels;
- u) all trees, grassed areas, landscape features and main structures on the site (buildings, car parking, driveways, walls, fences, paving, storage areas, elements contributing to the significance of a heritage item etc);
- v) a schedule of proposed planting, including botanical names, common names, quantities, pot size, expected mature height and staking requirements; and
- w) the location, species, and pot sizes of the forty four (44) replacements tree in accordance with the Condition of Consent - Planting Requirements; and
- x) the location of existing trees on site, including trees to be retained and removed in accordance with Arboricultural Impact Appraisal and Method Statement prepared by Naturally Trees dated August 10 2020; and
- y) a 2 metre wide landscaping strip on either side of the driveway between the entrance and car park in accordance with THDCP Part C Section 3 – Landscaping Clause 3.12 Car Parking; and
- z) landscape planting to triangular area beneath proposed three *Angophora floribunda* in car park; and
- aa) dense landscape screen planting to the full extent of the Landscape Easement located to the East of the site.

32. Biodiversity Offsetting Requirements

To offset the loss of biodiversity from the site, including the complete removal of 0.46 ha of PCT 1281 Turpentine – Grey Ironbark open forest on shale in the lower Blue Mountains, Sydney Basin Bioregion, The development must purchase and retire nine (9) ecosystem credits listed in the table below.

Impacted plant community type	Number of ecosystem credits	Offset option	IBRA Region	Plant community type(s) / species that can be used to offset the impacts from development
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PCT 1281 Turpentine – Grey Ironbark open forest on shale in the lower Blue Mountains, Sydney Basin Bioregion	9	Like for like	Cumberland, Burraborang, Pittwater, Sydney Cataract, Wollemi and Yengo. or Any IBRA subregion that is within 100 km of the outer edge of the impacted site.	Northern Hinterland Wet Sclerophyll Forests > = 90% PCT 1281 and 1845 (HBT – No)
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A retirement certificate from the NSW Department of Planning, Industry & Environment to demonstrate compliance with this condition is to be provided to The Hills Shire Council's Manager – Environment and Health prior to issue of a Construction Certificate.

33. Erosion & Sediment Control Plan

Submission of an Erosion and Sediment Control Plan to the Principal Certifier, including details of:

- a) Allotment boundaries
- b) Location of the adjoining roads
- c) Contours
- d) Existing vegetation
- e) Existing site drainage
- f) Critical natural areas
- g) Location of stockpiles
- h) Erosion control practices
- i) Sediment control practices
- j) Outline of a maintenance program for the erosion and sediment controls

(NOTE: For guidance on the preparation of the Plan refer to 'Managing Urban Stormwater Soils & Construction' produced by the NSW Department of Housing).

34. Section 7.12 Contribution

Pursuant to section 4.17 (1) of the Environmental Planning and Assessment Act 1979, and The Hills Section 7.12 Contributions Plan, a contribution of **\$194,051.00** shall be paid to Council. This amount is to be adjusted at the time of the actual payment in accordance with the provisions of the Hills Section 7.12 Contributions Plan.

The contribution is to be paid prior to the issue of the Construction Certificate.

You are advised that the maximum percentage of the levy for development under section 7.12 of the Act having a proposed construction cost is within the range specified in the table below;

Proposed cost of the development	Maximum percentage of the levy
Up to \$100,000	Nil
\$100,001 - \$200,000	0.5 %
More than \$200,000	1%

35. Traffic Control Plan

A Traffic Control Plan is required to be prepared and approved. The person preparing and approving the plan must have the relevant accreditation to do so. A copy of the approved plan must be submitted to Council before being implemented. Where amendments to the plan are made, they must be submitted to Council before being implemented. The traffic control plan must detail construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control.

PRIOR TO WORK COMMENCING ON THE SITE

36. Sydney Water Building Plan Approval

A building plan approval must be obtained from Sydney Water Tap in™ to ensure that the approved development will not impact Sydney Water infrastructure.

A copy of the building plan approval and receipt from Sydney Water Tap in™ (if not already provided) must be submitted to the Principal Certifier upon request prior to works commencing.

Please refer to the website <http://www.sydneywater.com.au/tapin/index.htm>, Sydney Water Tap in™, or telephone 13 20 92.

37. Tree Protection Fencing

Prior to any works commencing on site Tree Protection Fencing must be in place around trees or groups of trees nominated for retention. The location of fencing and ground protection shall be as per Tree Management Plan as per Arboricultural Impact Appraisal and Method Statement prepared by Naturally Trees dated 10 August 2020.

The erection of a minimum 1.8m chain-wire fence to delineate the TPZ is to stop the following occurring:

- Stockpiling of materials within TPZ;
- Placement of fill within TPZ;
- Parking of vehicles within the TPZ;
- Compaction of soil within the TPZ;
- Cement washout and other chemical or fuel contaminants within TPZ; and
- Damage to tree crown.

38. Tree Protection Signage

Prior to any works commencing on site a Tree Protection Zone sign must be attached to the Tree Protection Fencing stating "Tree Protection Zone No Access" (The lettering size on the sign shall comply with AS1319). Access to this area can only be authorised by the project arborist or site manager.

39. Mulching within Tree Protection Zone

Prior to any works commencing on site all areas within the Tree Protection Zone are to be mulched with composted leaf mulch to a depth of 100mm.

40. Trenching within Tree Protection Zone

Any trenching for installation of drainage, sewerage, irrigation or any other services shall not occur within the Tree Protection Zone of trees identified for retention and trees within adjoining properties without prior notification to Council (72 hours notice) or under supervision of a project arborist.

If supervision by a project arborist is selected, certification of supervision must be provided to the Certifying Authority within 14 days of completion of trenching works.

Root pruning should be avoided, however where necessary, all cuts shall be clean cuts made with sharp tools such as secateurs, pruners, handsaws, chainsaws or specialised root pruning equipment. Where possible, the roots to be pruned should be located and exposed using minimally destructive techniques such as hand-digging, compressed air or water-jetting, or non-destructive techniques. No roots larger than 40mm diameter to be cut without Arborist advice and supervision. All root pruning must be done in accordance with Section 9 of Australia Standard 4373-2007 Pruning of Amenity Trees.

41. Separate OSD Detailed Design Approval

No building work is to commence (tree removal and demolition permitted) until a detailed design for the Onsite Stormwater Detention system has been approved by either Council or an accredited certifier.

41. Property Condition Report – Public Assets

A property condition report must be prepared and submitted to Council recording the condition of all public assets in the direct vicinity of the development site. This includes, but is not limited to, the road fronting the site along with any access route used by heavy vehicles. If uncertainty exists with respect to the necessary scope of this report, it must be clarified with Council before works commence. The report must include:

- Planned construction access and delivery routes; and
- Dated photographic evidence of the condition of all public assets.

42. Transport for NSW Design Approval

The design and construction of the relevant works must be approved by Transport for NSW before any works commence on Old Northern Road. A copy of any Transport for NSW stamped approved construction plans must be submitted to Council prior to the release of the Construction Certificate for Stage 4.

43. Erosion and Sediment Control/ Soil and Water Management

The approved SWMP measures must be in place prior to works commencing and maintained during construction and until the site is stabilised to ensure their effectiveness. For major works, these measures must be maintained for a minimum period of six months following the completion of all works.

44. Management of Building Sites

The erection of suitable fencing or other measures to restrict public access to the site and building works, materials or equipment when the building work is not in progress or the site is otherwise unoccupied.

The erection of a sign, in a prominent position, stating that unauthorised entry to the site is not permitted and giving an after hours contact name and telephone number.

45. Consultation with Service Authorities

Applicants are advised to consult with Telstra, NBN Co and Australia Post regarding the installation of telephone conduits, broadband connections and letterboxes as required.

Unimpeded access must be available to the electricity supply authority, during and after building, to the electricity meters and metering equipment.

46. Approved Temporary Closet

An approved temporary closet connected to the sewers of Sydney Water, or alternatively an approved chemical closet is to be provided on the land, prior to building operations being commenced.

47. Stabilised Access Point

A stabilised all weather access point is to be provided prior to commencement of site works, and maintained throughout construction activities until the site is stabilised. The controls shall be in accordance with the requirements with the details approved by Council and/or as directed by Council Officers. These requirements shall be in accordance with Managing

Urban Stormwater – Soils and Construction produced by the NSW Department of Housing
(Blue Book).

48. Details and Signage - Principal Contractor and Principal Certifier

Details

Prior to work commencing, submit to the Principal Certifier notification in writing of the principal contractor's (builder) name, address, phone number, email address and licence number.

No later than two days before work commences, Council is to have received written details of the Principal Certifier in accordance with Clause 103 of the Environmental Planning and Assessment Regulations 2000.

Signage

A sign is to be erected in accordance with Clause 98A(2) of the Environmental Planning and Assessment Regulations 2000. The sign is to be erected in a prominent position and show –

- a) the name, address and phone number of the Principal Certifier for the work,
- b) the name and out of working hours contact phone number of the principal contractor/person responsible for the work.

The sign must state that unauthorised entry to the work site is prohibited.

49. Notification of Asbestos Removal

Prior to commencement of any demolition works involving asbestos containing materials, all adjoining neighbours and Council must be given a minimum five days written notification of the works.

50. Engagement of a Project Arborist

Prior to works commencing, a Project Arborist (minimum AQF Level 5) is to be appointed and the following details provided to The Hills Shire Council's Manager – Environment & Health:

- a) Name:
- b) Qualification/s:
- c) Telephone number/s:
- d) Email:

If the Project Arborist is replaced, Council is to be notified in writing of the reason for the change and the details of the new Project Arborist provided within 7 days.

51. Erosion and Sedimentation Controls

Erosion and sedimentation controls shall be in place prior to the commencement of site works and maintained throughout construction activities, until the site is landscaped and/or suitably revegetated. These requirements shall be in accordance with *Managing Urban Stormwater – Soils and Construction (Blue Book)* produced by the NSW Department of Housing.

This will include, but not be limited to a stabilised access point and appropriately locating stockpiles of topsoil, sand, aggregate or other material capable of being moved by water being stored clear of any drainage line, easement, natural watercourse, footpath, kerb or roadside.

52. Demolition Works and Asbestos Management

The demolition of any structure is to be carried out in accordance with the Work Health and Safety Act 2011. All vehicles transporting demolition materials offsite are to have covered loads and are not to track any soil or waste materials on the road. Should demolition works obstruct or inconvenience pedestrian or vehicular traffic on adjoining public road or reserve, a separate application is to be made to Council to enclose the public place with a hoard or fence. All demolition works involving the removal and disposal of asbestos must only be undertaken by a licenced asbestos removalist who is licenced to carry out the work. Asbestos removal must be carried out in accordance with the SafeWork NSW, Environment Protection Authority and Office of Environment and Heritage requirements. Asbestos to be disposed of must only be transported to waste facilities licenced to accept asbestos. No asbestos products are to be reused on the site.

DURING CONSTRUCTION

53. Location of Works

The total extent of the development shall be contained wholly within the confines of the allotment boundaries including the footings and any associated drainage lines. A survey report from a registered land surveyor may be required for confirmation of the same.

54. Hours of Work

Work on the project to be limited to the following hours: -

Monday to Saturday - 7.00am to 5.00pm;

No work to be carried out on Sunday or Public Holidays.

The builder/contractor shall be responsible to instruct and control sub-contractors regarding the hours of work.

55. Roof Water Drainage

Gutter and downpipes to be provided and connected to an approved drainage system upon installation of the roof covering.

56. Survey Report and Site Sketch

A survey report and site sketch signed and dated (including contact details) by the registered land surveyor may be requested by the Principal Certifier during construction. The survey shall confirm the location of the building/structure in relation to all boundaries and/or levels. As of September 2018 the validity of surveys has been restricted by legislation to 2 years after issue.

57. Critical Stage Inspections and Inspections Nominated by the Principal Certifier

Section 6.6 of the Environmental Planning and Assessment Act 1979 requires critical stage inspections to be carried out for building work as prescribed by Clause 162A of the Environmental Planning and Assessment Regulation 2000. Prior to allowing building works to commence the Principal Certifier must give notice of these inspections pursuant to Clause 103A of the Environmental Planning and Assessment Regulation 2000.

An Occupation Certificate cannot be issued and the building may not be able to be used or occupied where any mandatory critical stage inspection or other inspection required by the Principal Certifier is not carried out. Inspections can only be carried out by the Principal Certifier unless agreed to by the Principal Certifier beforehand and subject to that person being an accredited certifier.

58. Landscaping Works

Landscaping works, associated plantings and the construction of any retaining walls are to be undertaken generally in accordance with the approved plans.

59. Asbestos Removal

Asbestos containing material, whether bonded or friable, shall be removed by a licenced asbestos removalist. A signed contract between the removalist and the person having the benefit of the development application is to be provided to the Principle Certifying Authority, identifying the quantity and type of asbestos being removed. Details of the landfill site that may lawfully receive the asbestos is to be included in the contract.

Once the materials have been removed and delivered to the landfill site, receipts verifying the quantity received by the site are to be provided to the Principle Certifying Authority.

Transporters of asbestos waste (of any load over 100kg of asbestos waste or 10 square metres or more of asbestos sheeting) must provide information to the NSW EPA regarding the movement of waste using their WasteLocate online reporting tool www.wastelocate.epa.nsw.gov.au

60. Dust Control

The emission of dust must be controlled to minimise nuisance to the occupants of the surrounding premises. In the absence of any alternative measures, the following measures must be taken to control the emission of dust:

- Dust screens must be erected around the perimeter of the site and be kept in good repair for the duration of the construction work;
- All dusty surfaces must be wet down and suppressed by means of a fine water spray. Water used for dust suppression must not cause water pollution; and
- All stockpiles of materials that are likely to generate dust must be kept damp or covered.

61. Tree Removal & Fauna Protection

Trees containing hollows or nests shall be lopped in such a way that the risk of injury or mortality to fauna is minimised, such as top-down lopping, with lopped sections gently lowered to the ground, or by lowering whole trees to the ground with the “grab” attachment of a machine.

Any injured fauna is to be placed into the hands of a wildlife carer (please note only appropriately vaccinated personnel are to handle bats).

62. Protection of Existing Vegetation

Vegetation not authorised for removal by this consent shall be protected during construction to ensure that natural vegetation and topography on the subject site is not unnecessarily disturbed.

Any excavated material not used in the construction of the subject works is to be removed from the site to a licensed facility and under no circumstances is to be deposited in bushland areas.

63. Project Arborist

The Project Arborist must be on site to supervise any works in the vicinity of or within the Tree Protection Zone (TPZ) of any trees required to be retained on the site or any adjacent sites.

Supervision of the works shall be certified by the Project Arborist and a copy of such certification shall be submitted to the PCA within 14 days of completion of the works.

64. Contamination

Ground conditions are to be monitored and should evidence such as, but not limited to, imported fill and/or inappropriate waste disposal indicate the likely presence of contamination on site, works are to cease, Council's Manager- Environment and Health is to be notified and a site contamination investigation is to be carried out in accordance with *State Environmental Planning Policy 55 – Remediation of Land*.

The report is to be submitted to Council's Manager – Environment and Health for review prior to works recommencing on site.

65. European Sites or Relics

If, during the earthworks, any evidence of a European archaeological site or relic is found, all works on the site are to cease and Heritage (Department of Premier and Cabinet) be contacted immediately. All relics are to be retained in situ unless otherwise directed by the Heritage (Department of Premier and Cabinet).

PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

66. Section 73 Certificate must be submitted to the Principal Certifier before the issuing of an Occupation Certificate

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Make early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

Application must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Building and developing > Developing your land > water Servicing Coordinator or telephone 13 20 92.

The Section 73 Certificate must be submitted to the Principal Certifier before occupation of the development/release of the plan of subdivision.

67. Landscaping Prior to Issue of Occupation Certificate

Landscaping of the site shall be carried out prior to issue of a Final/Whole Occupation Certificate being issued for the entire development. The Landscaping shall be either certified to be in accordance with the approved plan by an Accredited Landscape Architect or be to the satisfaction of Council's Manager Environment and Health. All landscaping is to be maintained at all times in accordance with THDCP Part C, Section 3 – Landscaping and the approved landscape plan.

68. Completion of Engineering Works

An Occupation Certificate must not be issued prior to the completion of all engineering works covered by this consent, in accordance with this consent.

69. Property Condition Report – Public Assets

Before an Occupation Certificate is issued, an updated property condition report must be prepared and submitted to Council. The updated report must identify any damage to public assets and the means of rectification for the approval of Council.

70. Stormwater Management Certification

The stormwater management system must be completed to the satisfaction of the Principal Certifier prior to the issuing of an Occupation Certificate. The following documentation is required to be submitted upon completion of the stormwater management system and prior to a final inspection:

- Works as executed plans prepared on a copy of the approved plans;
- For Onsite Stormwater Detention (OSD) systems, a certificate of hydraulic compliance (Form B.11) from a hydraulic engineer verifying that the constructed OSD system will function hydraulically;
- For OSD systems, a certificate of structural adequacy from a structural engineer verifying that the structures associated with the constructed OSD system are structurally adequate and capable of withstanding all loads likely to be imposed on them during their lifetime;
- Records of inspections; and
- An approved operations and maintenance plan.

Where Council is not the Principal Certifier a copy of the above documentation must be submitted to Council.

71. Creation of Restrictions/ Positive Covenants

Before an Occupation Certificate is issued the following restrictions/ positive covenants must be registered on the title of the subject site via dealing/ request document or Section 88B instrument associated with a plan. Council's standard recitals must be used for the terms:

a) Restriction/ Positive Covenant – Onsite Stormwater Detention

The subject site must be burdened with a restriction and a positive covenant using the "onsite stormwater detention systems" terms included in the standard recitals.

b) Restriction/ Positive Covenant – Water Sensitive Urban Design

The subject site must be burdened with a positive covenant that refers to the water sensitive urban design elements referred to earlier in this consent using the "water sensitive urban design elements" terms included in the standard recitals.

72. Consolidation of Allotments

All allotments included in this consent must be consolidated into a single allotment before an Occupation Certificate is issued. A copy of the registered plan must be submitted to Council.

THE USE OF THE SITE

73. Maintenance of Landscaping Works

The landscaping works, associated plantings and construction of retaining walls are to be effectively maintained at all times and throughout the life of the development.

74. Offensive Noise

The use of the premises, building services, equipment, machinery and ancillary fittings shall not give rise to "offensive noise" as defined under the provisions of the *Protection of the Environment Operation Act 1997*.

75. Lighting

Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the *Australian Standard AS 4282:1997 Control of Obtrusive Effects of Outdoor Lighting*.

76. Waste and Recycling Management

To ensure the adequate storage and collection of waste from the use of the premises, all garbage and recyclable materials emanating from the premises must be stored in the designated waste storage area, which must include provision for the storage of all waste generated on the premises between collections. Arrangement must be in place in all areas of the development for the separation of recyclable materials from garbage. The waste storage area must be screened from view from any adjoining residential property or public place. The waste storage area must be kept clean and tidy, bins must be washed regularly, and contaminants must be removed from bins prior to any collection.

77. Waste and Recycling Collection

All waste generated on the site must be removed at regular intervals. The collection of waste and recycling must not cause nuisance or interfere with the amenity of the surrounding area. Garbage and recycling must not be placed on public property for collection without the previous written approval of Council. Waste collection vehicles servicing the development are not permitted to reverse in or out of the site.

78. Signage Illumination

The illumination of the sign will be restricted to be from 6am until 9pm. All illumination emitted from any signage is to be turned off by 9pm daily.

79. Illuminated Sign

Should a justified complaint be received the illumination of the sign must be made to conform to the following:

Maximum Luminance

The following values are to be maximum values for the illumination of the sign.

- Daytime - 6000 cd/m²
- Dawn/Dusk - 600 cd/m²
- Night - 300 cd/m²

ATTACHMENTS

1. Locality Plan
2. Aerial Photograph
3. Site Plan
4. Stage 1 Plan
5. Stage 2 Plan
6. Stage 3 Plan
7. Stage 4 Plan
8. Ground Floor Plan
9. First Floor Plan
10. North and South Elevation (Block A and B)
11. North and South Elevation (Block A)
12. North and South Elevation (Block B1)
13. North and South Elevation (Block B2)
14. East Elevation (Block B2)
15. East and West Elevations (Block C)
16. North and South Elevation (Block C)
17. Sections
18. Shadow Diagrams
19. Building Height Plane Depicting Height Non-Compliance
20. Sections Depicting Building Height Non-Compliance
21. Landscape Plan
22. Schedule of Materials and Finishes
23. Signage Plan
24. Photomontage
25. Clause 4.6 Variation
26. Transport for NSW (RMS) Comments/Conditions

ATTACHMENT 1 – LOCALITY PLAN



- ☐ SUBJECT SITE
- ✓ PROPERTIES NOTIFIED

**HILLS DISTRICT HISTORICAL SOCIETY
ALSO NOTIFIED**

Overall site (outlined in red)
St Gabriel's School (outlined in blue)

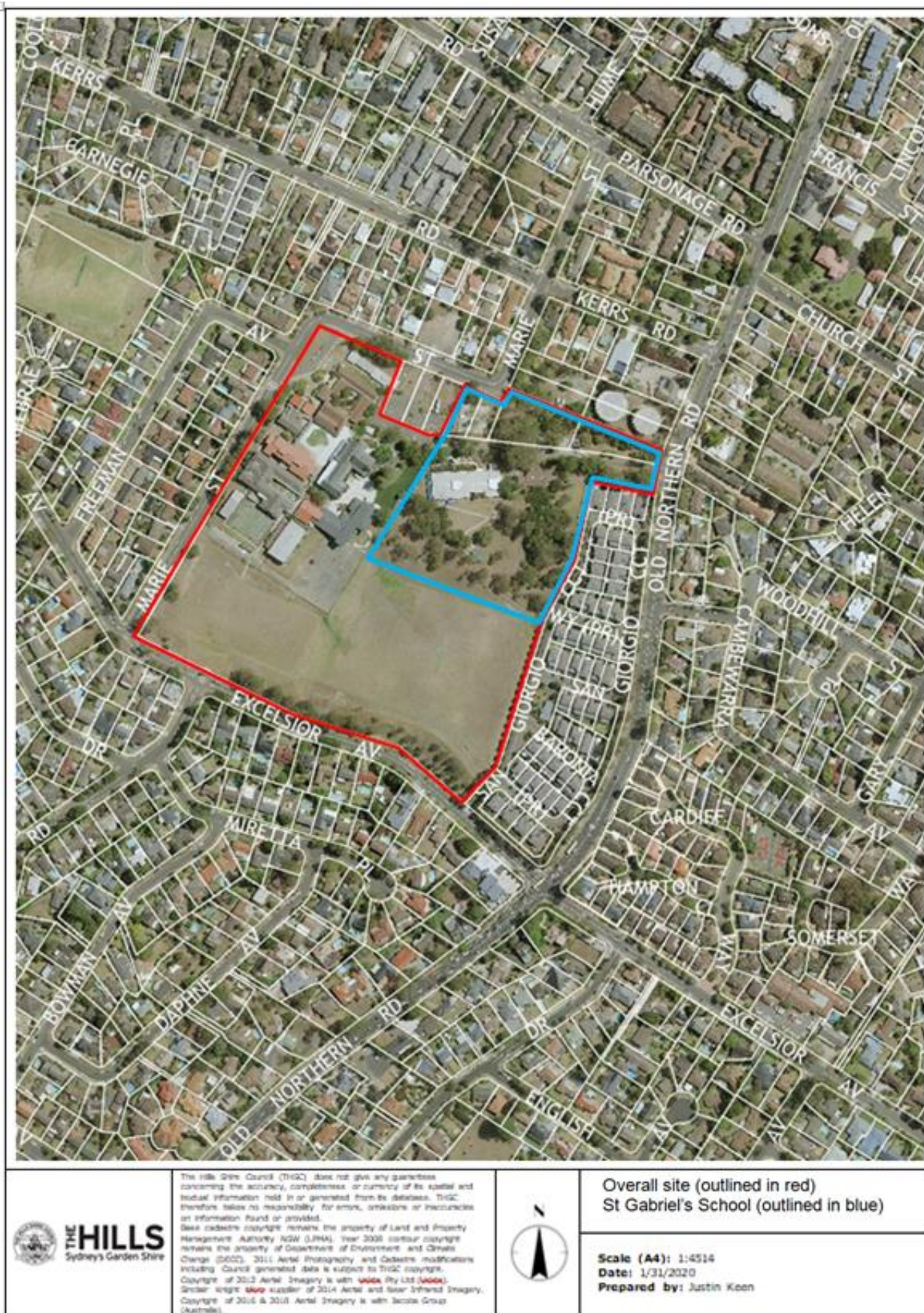
THE HILLS
Sydney's Garden Shire

THE HILLS SHIRE COUNCIL

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ATTACHMENT 2 – AERIAL PHOTOGRAPH



THE HILLS
Sydney's Garden Shire

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Base cadastre copyright: remains the property of Land and Property Management Authority NSW (LPM), Year 2005 contour copyright: remains the property of Department of Environment and Climate Change (DECC), 2011 Aerial Photography and Cadastre modifications including Council generated data is subject to THSC copyright.
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Source: Image supplier of 2014 Aerial and lower infrared Imagery. Copyright of 2015 & 2016 Aerial Imagery is with [Google Group \(Google\)](#).



Overall site (outlined in red)
St Gabriel's School (outlined in blue)

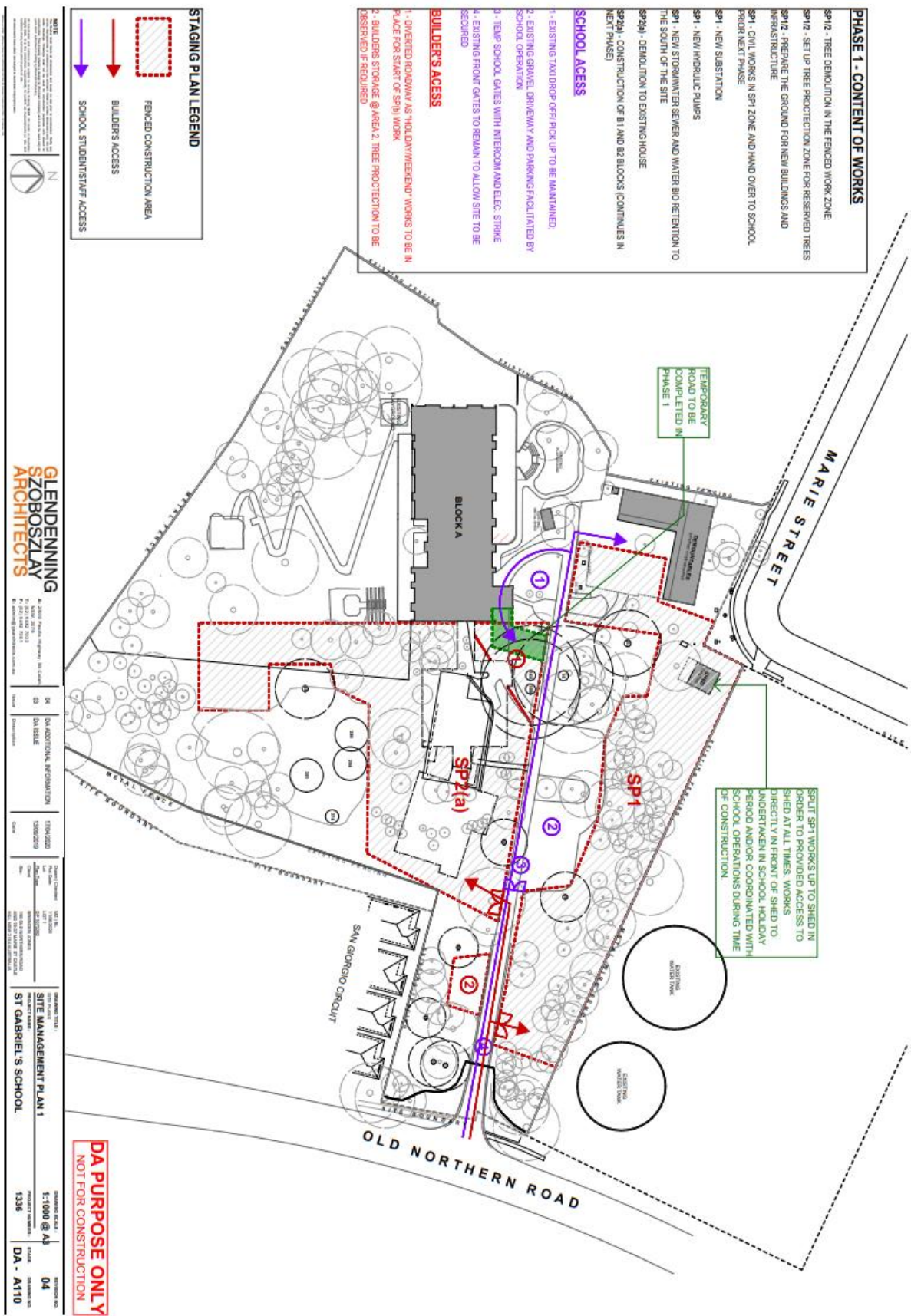
Scale (A4): 1:4514
Date: 1/31/2020
Prepared by: Justin Keen

ATTACHMENT 3 –SITE PLAN

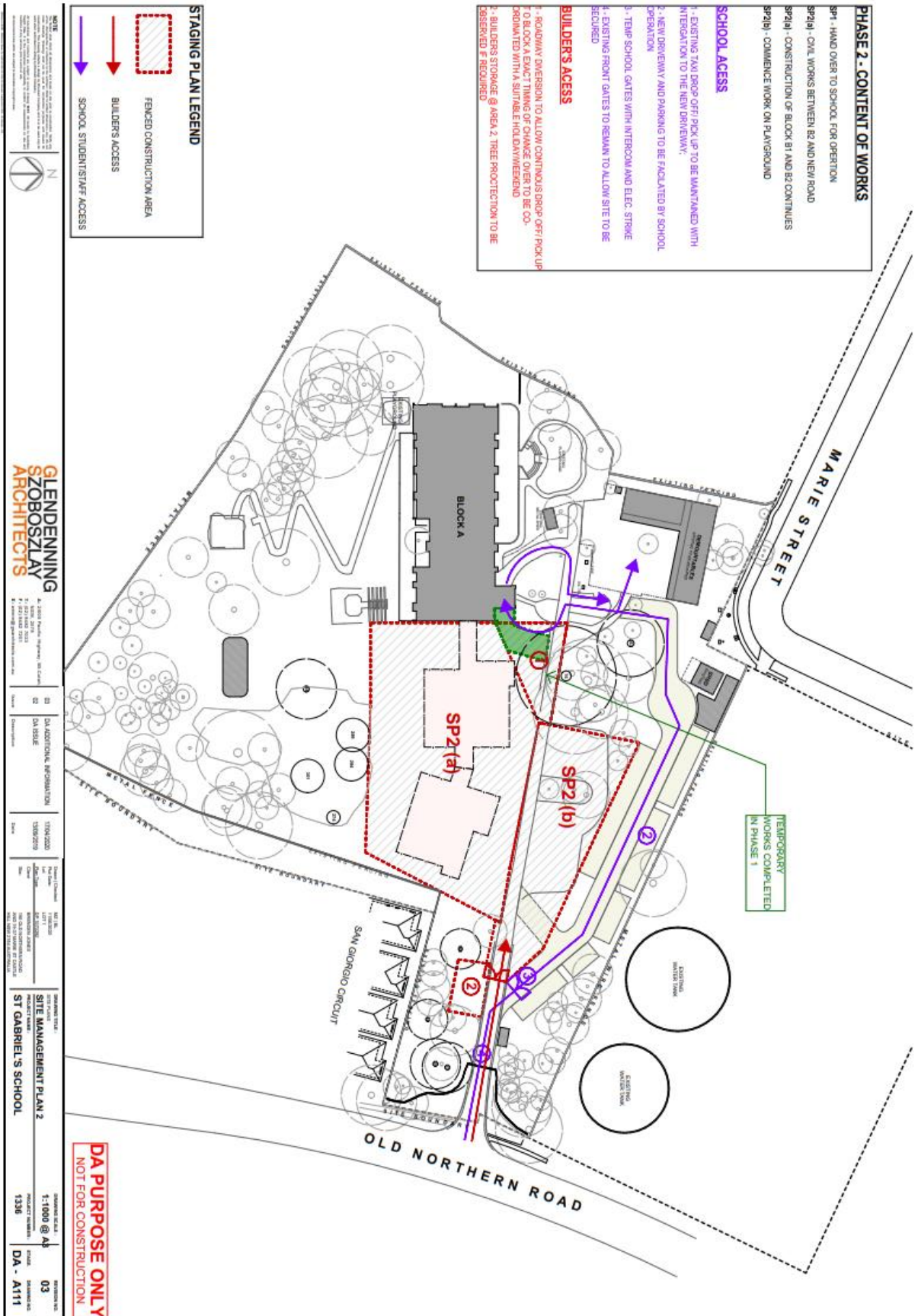


Location of easement for landscaping purposes

ATTACHMENT 4 – STAGE 1 PLAN



ATTACHMENT 5 – STAGE 2 PLAN



ATTACHMENT 6 – STAGE 3 PLAN

PHASE 3 - CONTENT OF WORKS

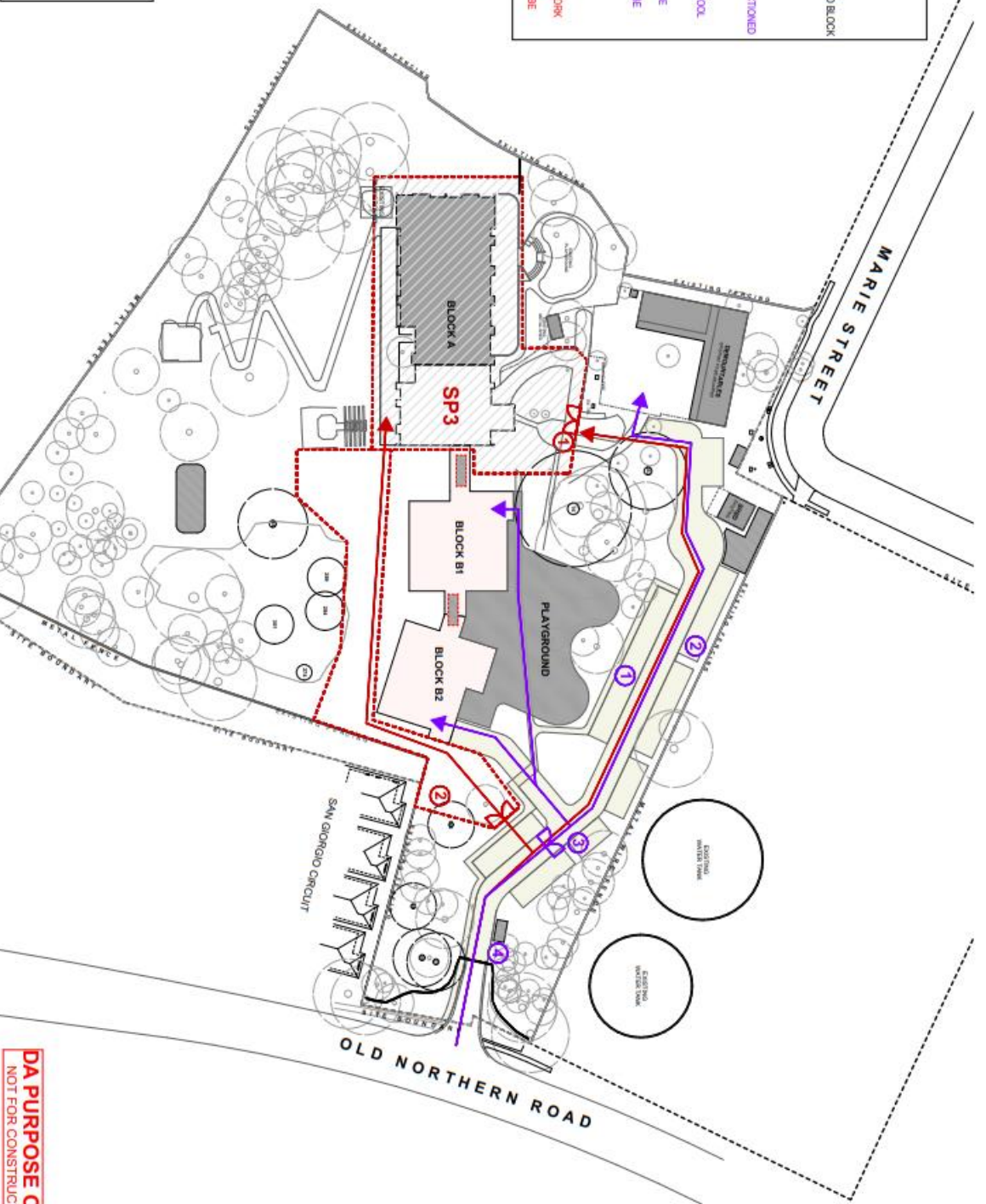
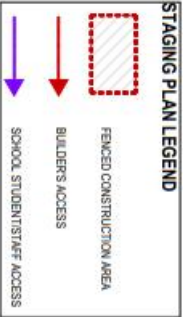
- SP2a) - BLOCK B1 AND B2 HANDED OVER TO SCHOOL
- SP2b) - PLAYGROUND HANDED OVER TO SCHOOL
- SP3 - COMMENCE WORK OF DEMOLITION AND ADDITIONS TO BLOCK A

SCHOOL ACCESS

- 1 - SOUTH SIDE OF NEW ROAD PARKING AREA TO BE FUNCTIONED AS TAXI DROP OFF/ PICK UP DURING THE STAGE OF CONSTRUCTION
- 2 - NEW DRIVEWAY AND PARKING TO BE FACILITATED BY SCHOOL OPERATION
- 3 - TEMP SCHOOL GATES WITH INTERCOM AND ELEC. STRIKE
- 4 - EXISTING FRONT GATES TO REMAIN TO ALLOW SITE TO BE SECURED

BUILDERS ACCESS

- 1 - ACCESS VIA ARRANGEMENT TO COMPLETE SP1 ROAD WORK
- 2 - BUILDERS STORAGE @ AREA 2, THREE PROTECTION TO BE OBSERVED IF REQUIRED



**GLENDENNING
SZOBOSZLAY
ARCHITECTS**

A. 2020/2021
B. 2021/2022
C. 2022/2023

DA ADDITIONAL INFORMATION
DA SIZE
DA DATE

10/08/2020

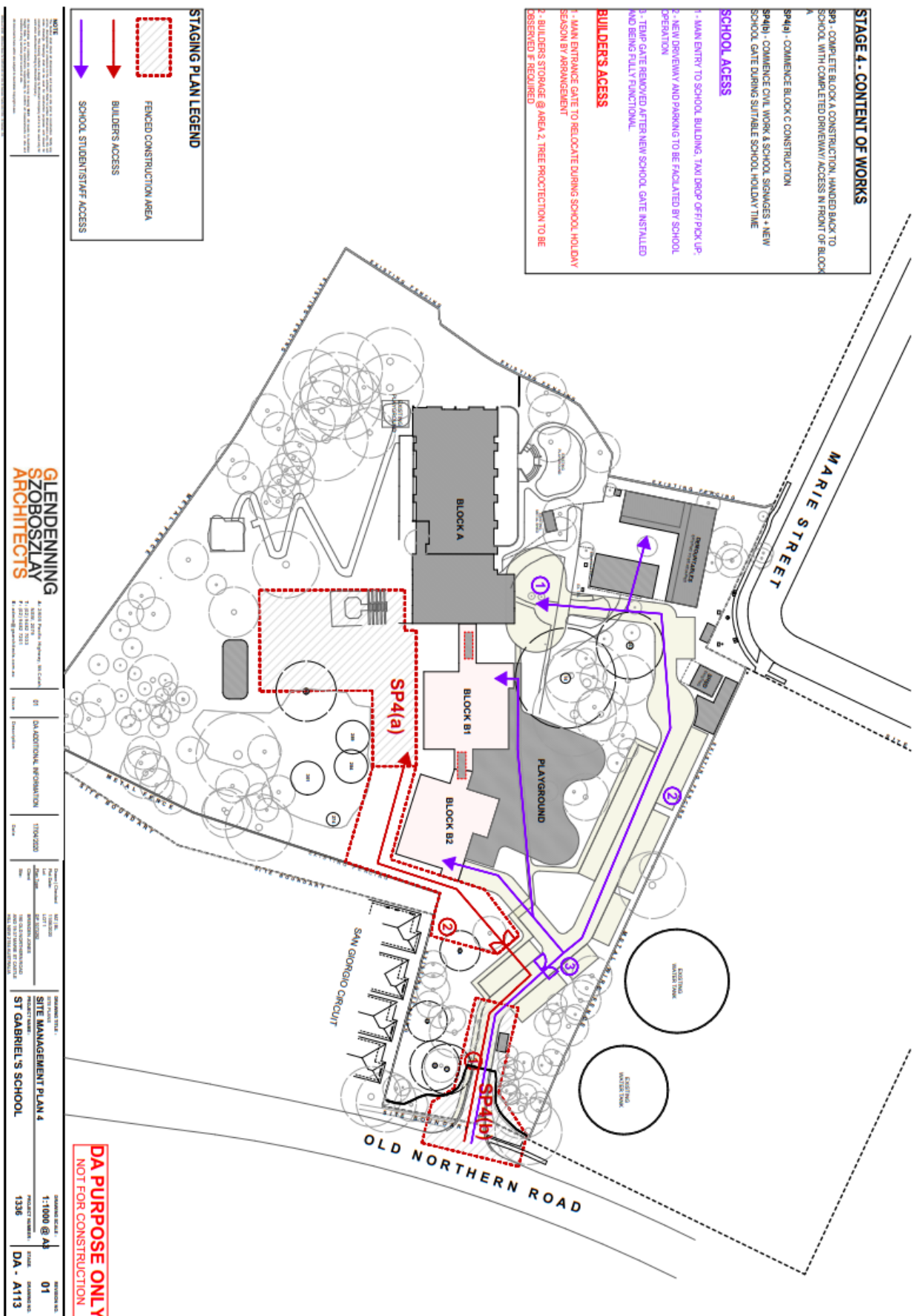
DA DATE
DA DATE
DA DATE

ST GABRIEL'S SCHOOL

DA - A112

**DA PURPOSE ONLY
NOT FOR CONSTRUCTION**

ATTACHMENT 7 – STAGE 4 PLAN



STAGE 4 - CONTENT OF WORKS

SP4(a) - COMPLETE BLOCK A CONSTRUCTION, HANDED BACK TO SCHOOL, WITH COMPLETED DRIVEWAY/ ACCESS IN FRONT OF BLOCK A

SP4(b) - COMMENCE CIVIL WORK A SCHOOL, SIGNAGES + NEW SCHOOL GATE DURING SUITABLE SCHOOL HOLIDAY TIME

SCHOOL ACCESS

- 1 - MAIN ENTRY TO SCHOOL BUILDING, TAXI DROP OFF PICK UP, OPERATION
- 2 - NEW DRIVEWAY AND PARKING TO BE FACILITATED BY SCHOOL
- 3 - TEMP GATE REMOVED AFTER NEW SCHOOL GATE INSTALLED AND BEING FULLY FUNCTIONAL.

BUILDERS ACCESS

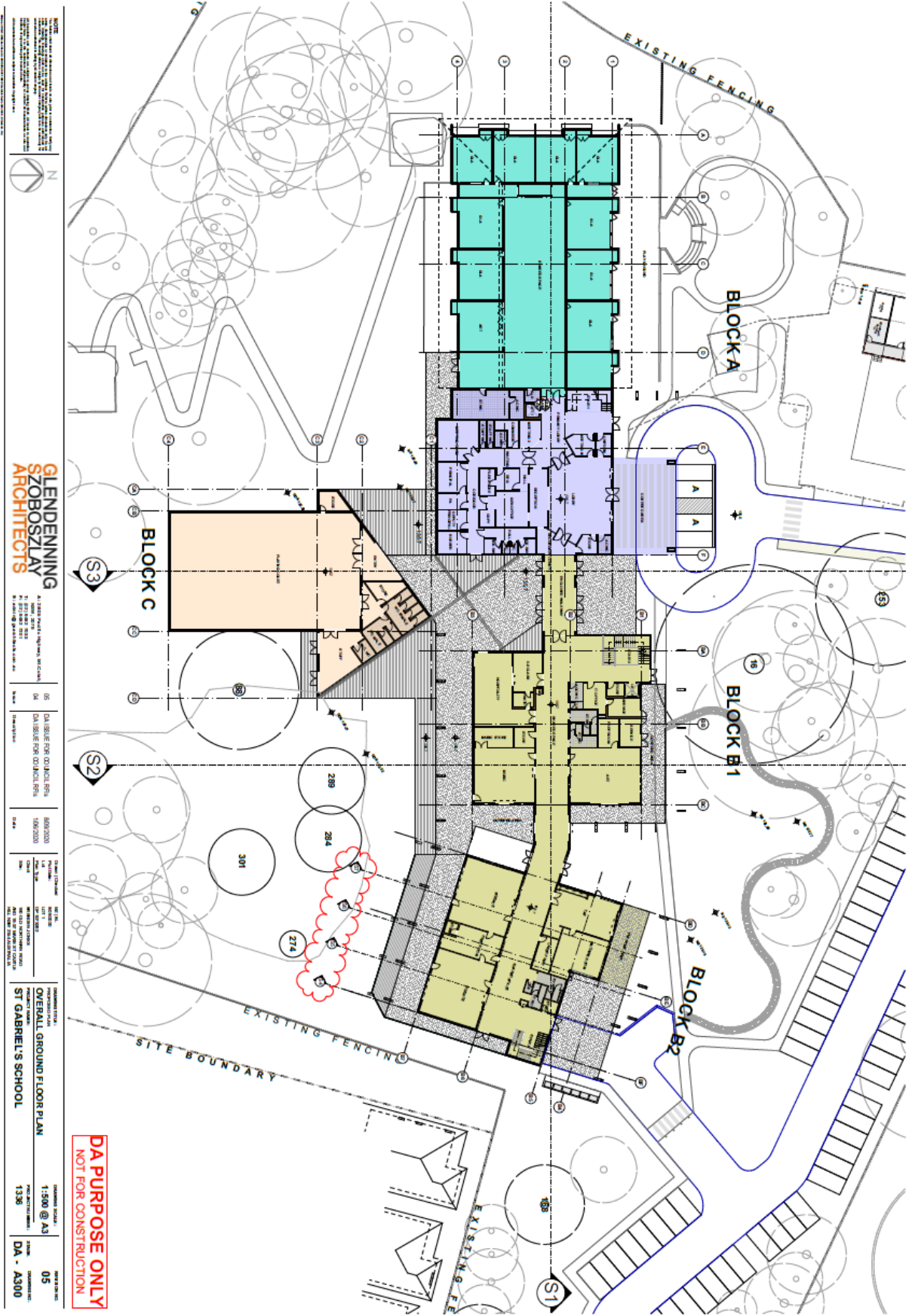
- 1 - MAIN ENTRANCE GATE TO RELOCATE DURING SCHOOL HOLIDAY SEASON BY ARRANGEMENT
- 2 - BUILDERS STORAGE @ AREA 2, TREE PROTECTION TO BE OBSERVED IF REQUIRED

STAGING PLAN LEGEND

- FENCED CONSTRUCTION AREA
- BUILDERS ACCESS
- SCHOOL STUDENT/STAFF ACCESS

DA PURPOSE ONLY
NOT FOR CONSTRUCTION

ATTACHMENT 8 – GROUND FLOOR PLAN

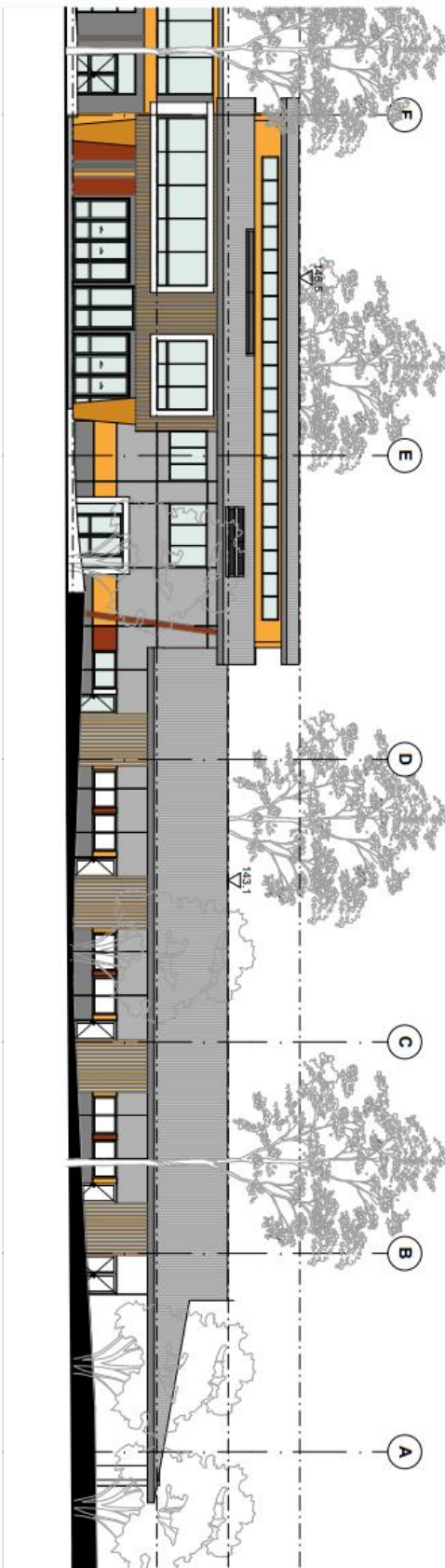


ATTACHMENT 9 – FIRST FLOOR PLAN

DATA PURPOSE ONLY
NOT FOR CONSTRUCTION

[illegible]

Scale 1:200

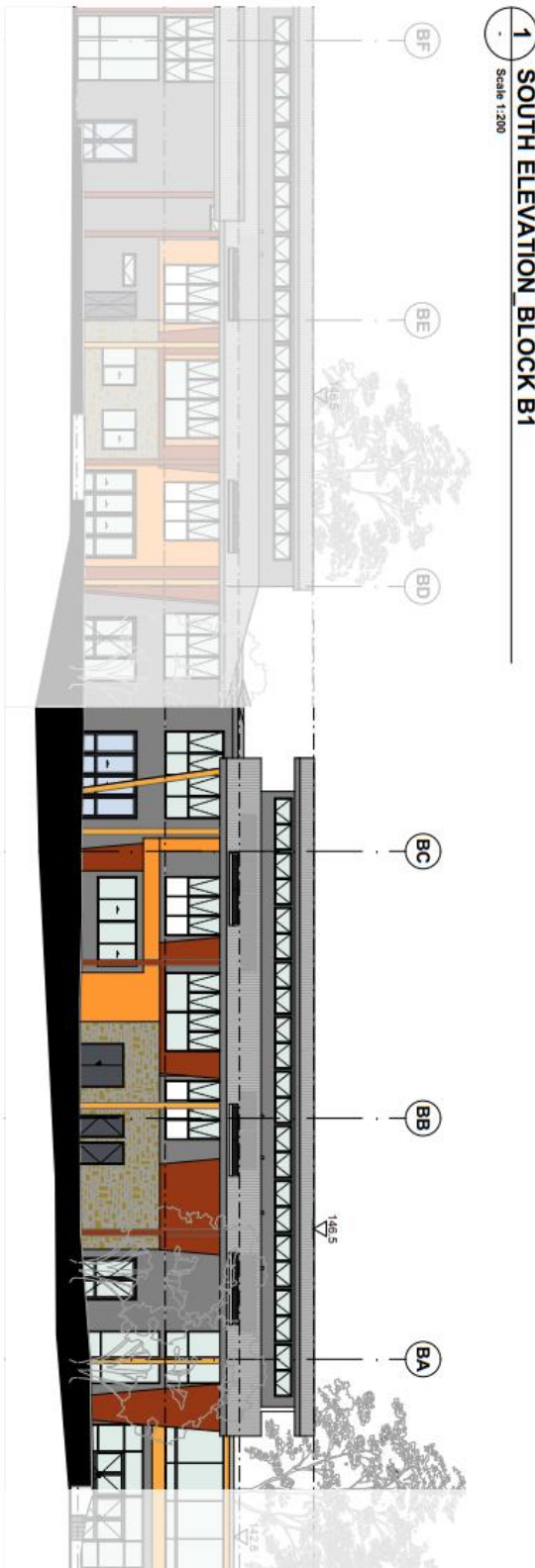


Scale 1:200

[illegible]

NO DA PURPOSE ONLY
NOT FOR CONSTRUCTION

ATTACHMENT 12 – NORTH AND SOUTH ELEVATION (BLOCK B1)



DA PURPOSE ONLY
NOT FOR CONSTRUCTION

GLENDENNING SZOBOSZLAY ARCHITECTS 1/100 South, Victoria St, Camberwell Ph: 03 9594 1234 Email: info@szoboszlay.com.au		04	DA ISSUE FOR COUNCIL REF.	13/06/2020	1:200 @ A3	DA - A420
PROJECT TITLE: BLOCK B1 - ELEVATIONS ST GABRIEL'S SCHOOL		03	DA ISSUE	13/06/2020	1:200 @ A3	DA - A420
DRAWING NO. 04		03	DA ISSUE	13/06/2020	1:200 @ A3	DA - A420
SCALE 1:200 @ A3		03	DA ISSUE	13/06/2020	1:200 @ A3	DA - A420

1 SOUTH ELEVATION BLOCK B2

Scale 1:200

BD BE BF

146.5

143.1

139.7

135.7

GROUND FLOOR LEVEL

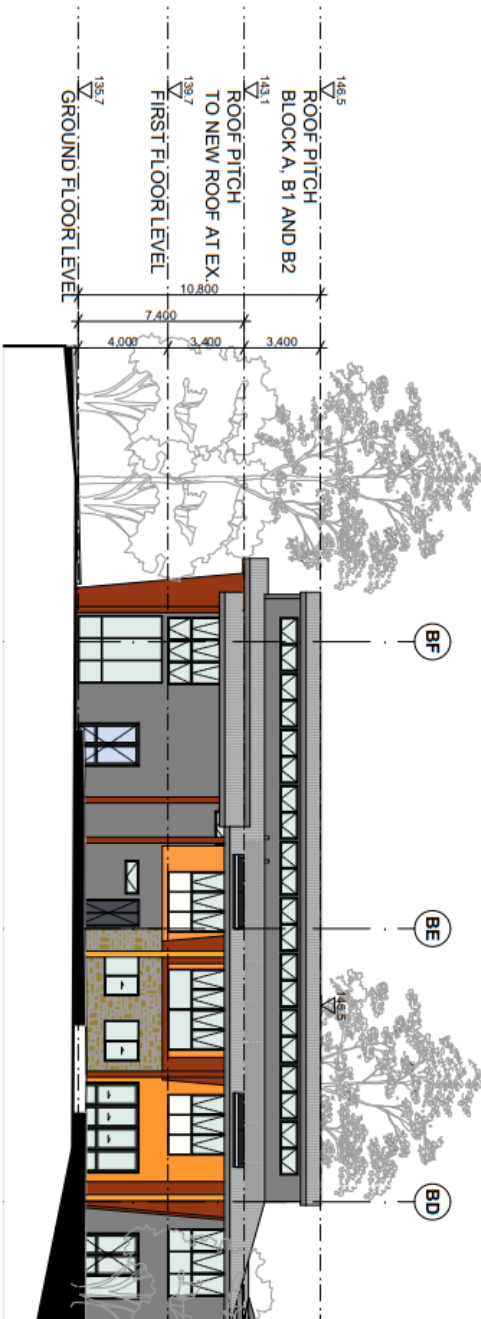
FIRST FLOOR LEVEL

ROOF PITCH

ROOF PITCH TO NEW ROOF AT EX

4,000 3,400 3,400 7,400 10,800

BLOCK A, B1 AND B2



2 NORTH ELEVATION BLOCK B2
Scale 1:200

DA PURPOSE ONLY
NOT FOR CONSTRUCTION

DRAWING SCALE: 1:200 @ A3 PROJECT NUMBER: 1336	REVISION NO: 04 DRAWING NO: DA - A430
---	--

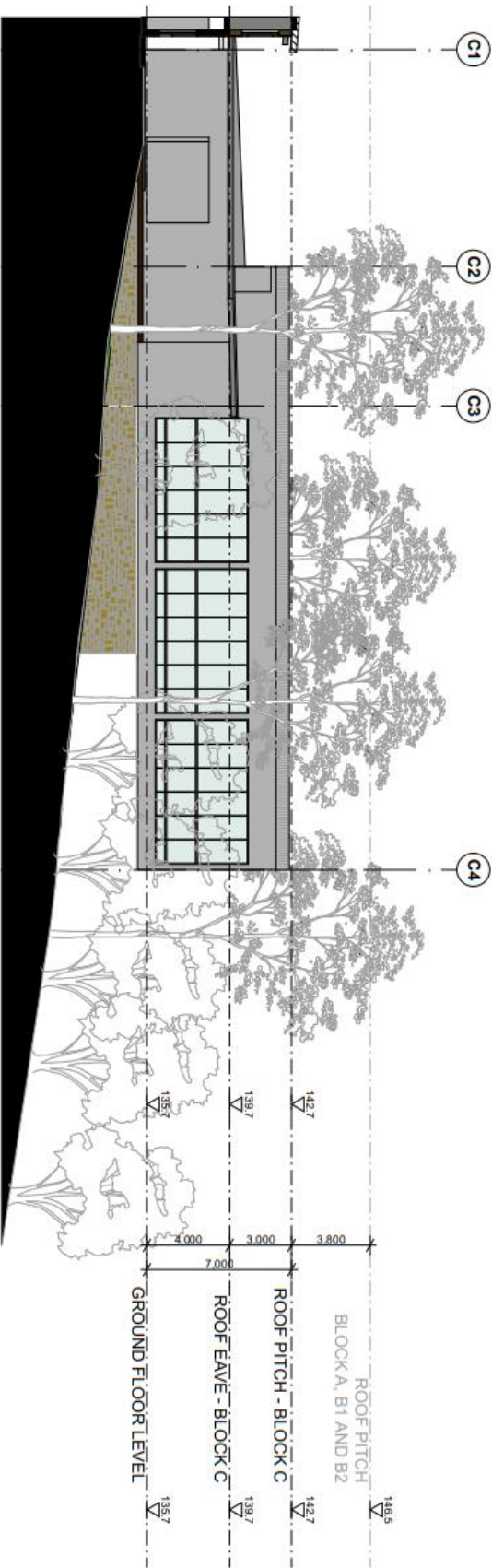
DRAWING SCALE:	1:200 @ A3	REVISION NO:	04
PROJECT NUMBER:	1336	STAGE:	DA - A430

Architectural drawing of the East Elevation of Block B2. The drawing shows a modern building with a grey facade, orange-brown accents, and large windows. It is set against a background of stylized trees. The drawing includes a scale bar (1:200) and a north arrow. Key dimensions and levels are indicated: Roof Pitch (148.5, 143.1), Block A, B1 and B2 (3.400), Roof Pitch to New Roof at EX (10.800), First Floor Level (135.7), and Ground Floor Level (135.7). The drawing is labeled "EAST ELEVATION BLOCK B2" and "Scale 1:200".

DA PURPOSE ONLY
NOT FOR CONSTRUCTION

[illegible]

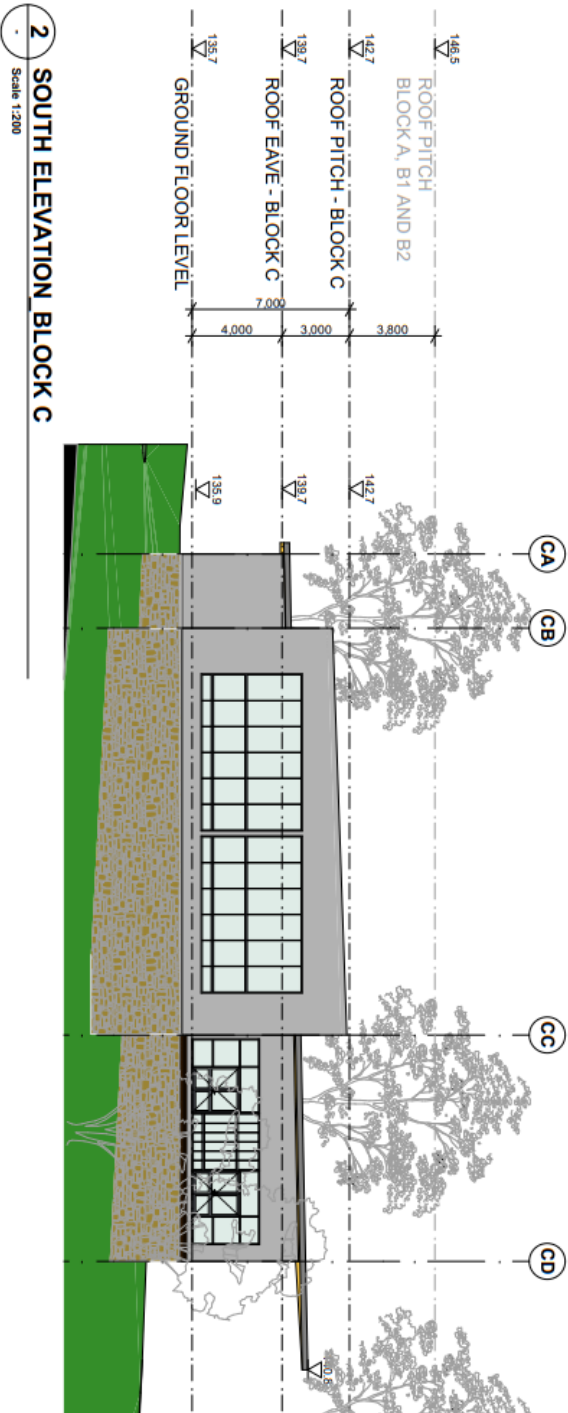
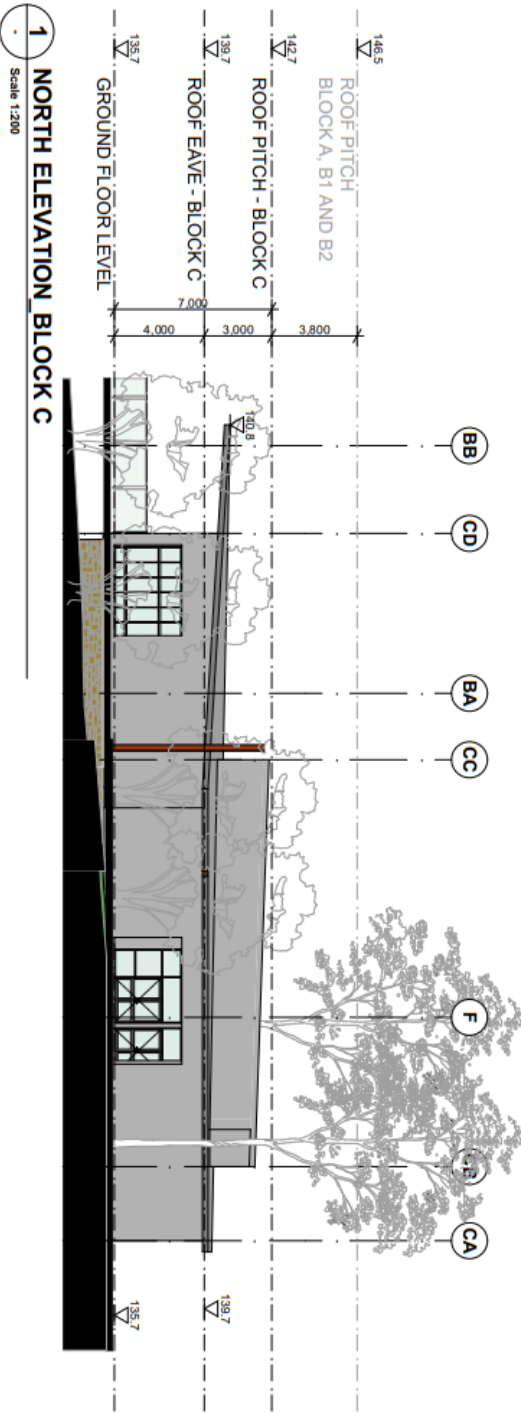
ATTACHMENT 15 – EAST AND WEST ELEVATIONS (BLOCK C)



NOTE: 1. THIS DRAWING IS A PRELIMINARY DESIGN AND IS NOT TO BE USED FOR CONSTRUCTION. 2. THE DESIGNER ASSUMES NO LIABILITY FOR THE ACCURACY OF THE INFORMATION PROVIDED. 3. THE DESIGNER ASSUMES NO LIABILITY FOR THE ACCURACY OF THE INFORMATION PROVIDED. 4. THE DESIGNER ASSUMES NO LIABILITY FOR THE ACCURACY OF THE INFORMATION PROVIDED. 5. THE DESIGNER ASSUMES NO LIABILITY FOR THE ACCURACY OF THE INFORMATION PROVIDED.	
GLDENNING SZOBOSZLAY ARCHITECTS 1001 BROADWAY, SUITE 200 NEW YORK, NY 10003 P: 212 691 1234 F: 212 691 1235 E: gls@szoboszlay.com	DA ISSUE DA COMPLETION DATE 20/06/2019
ST GABRIEL'S SCHOOL	DA - A440

DA PURPOSE ONLY
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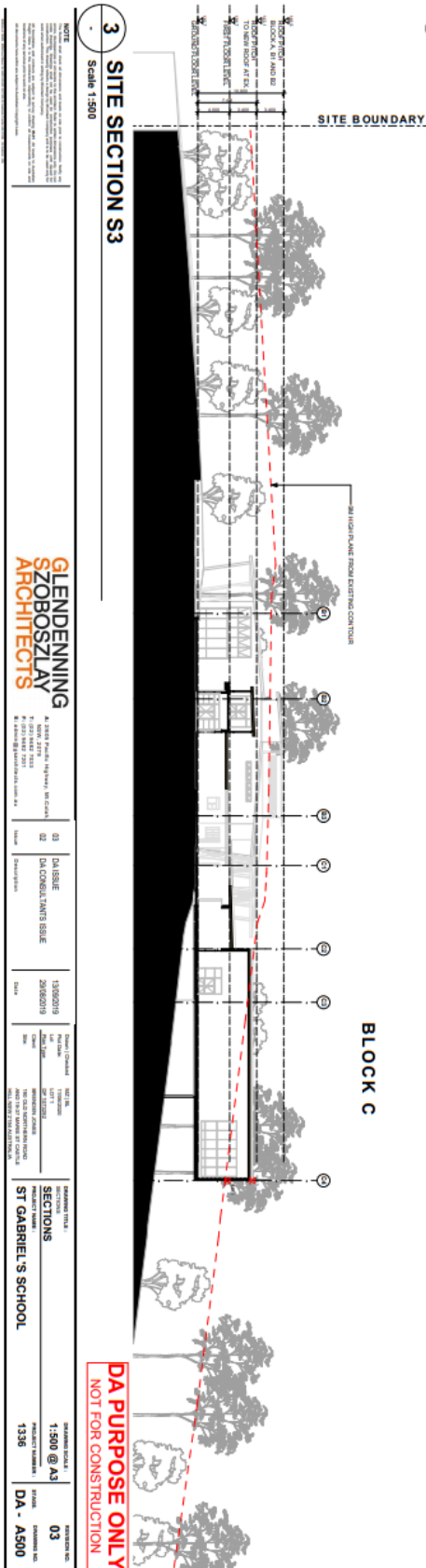
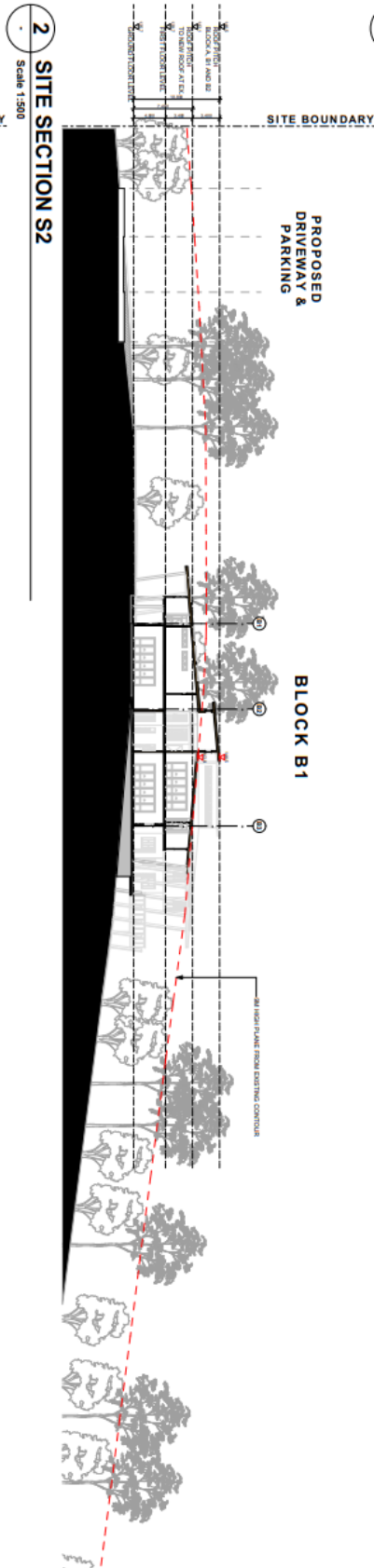
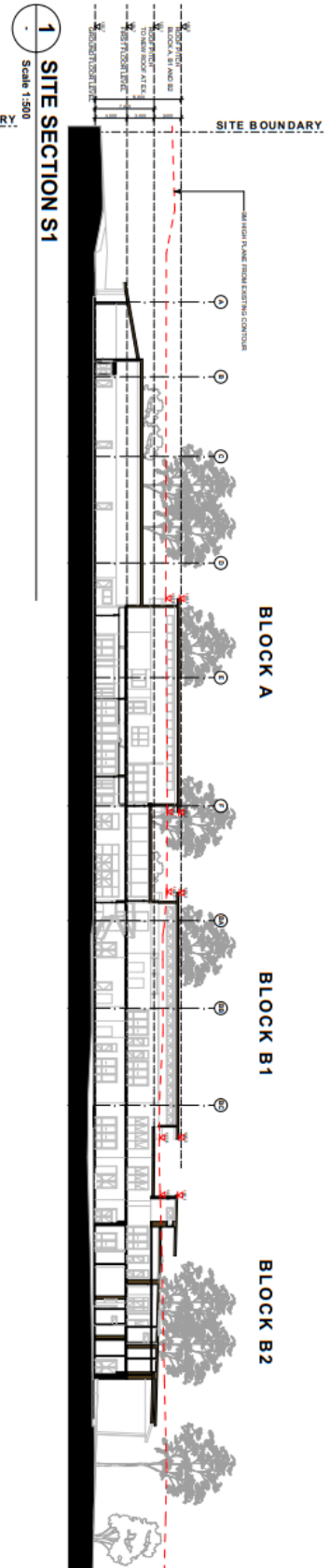
ATTACHMENT 16 – NORTH AND SOUTH ELEVATION (BLOCK C)



NOTES 1. All elevations are based on the datum of 135.7m AHD. 2. The building is shown with a pitched roof and a gabled section. 3. The facade features a large window on the left and a smaller window on the right. 4. The building is surrounded by trees and landscaping.	
CLIENT ST GABRIEL'S SCHOOL	DATE 13/06/2019
PROJECT NAME ST GABRIEL'S SCHOOL	PROJECT NUMBER 1336
SCALE 1:200 @ A3	DATE 13/06/2019
DESIGNER SZOBOSZLAY ARCHITECTS	DATE 13/06/2019
DATE 13/06/2019	DATE 13/06/2019

DA PURPOSE ONLY
NOT FOR CONSTRUCTION

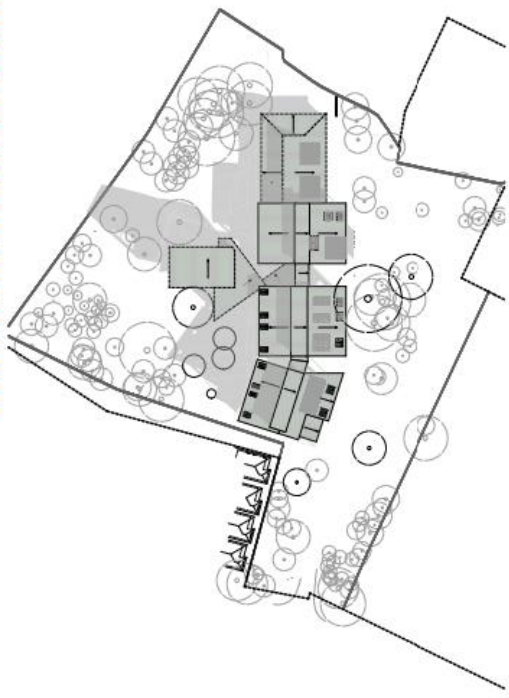
ATTACHMENT 17 – SECTIONS



ATTACHMENT 18 – SHADOW DIAGRAMS

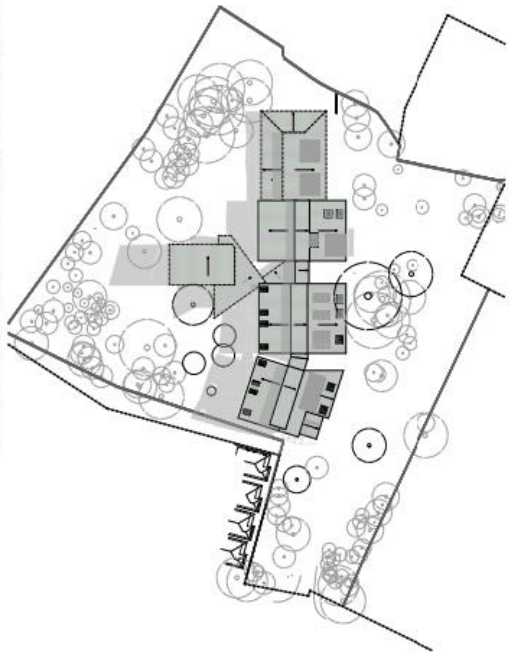
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SHADOW DIAGRAM JUNE 22ND 9AM
Scale 1:2000



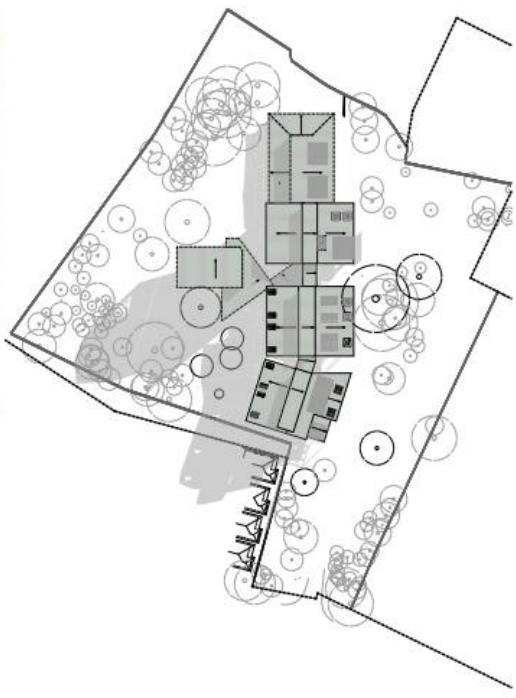
2

SHADOW DIAGRAM JUNE 22ND 12PM
Scale 1:2000



3

SHADOW DIAGRAM JUNE 22ND 3PM
Scale 1:2000



NOTE: These diagrams are for informational purposes only. They are not to be used for construction. The diagrams are based on the best available information and are not a guarantee of accuracy. The diagrams are not to be used for construction.

GLENDENNING SZOBOSZLAY ARCHITECTS

14 LINDA ROAD, HILKES, VIC 3042
P 03 9575 2222
E glendenning@szoboszlay.com.au

02 DA ISSUE
01 DA CONSULTANTS BRIEF

13/06/2019
20/06/2019

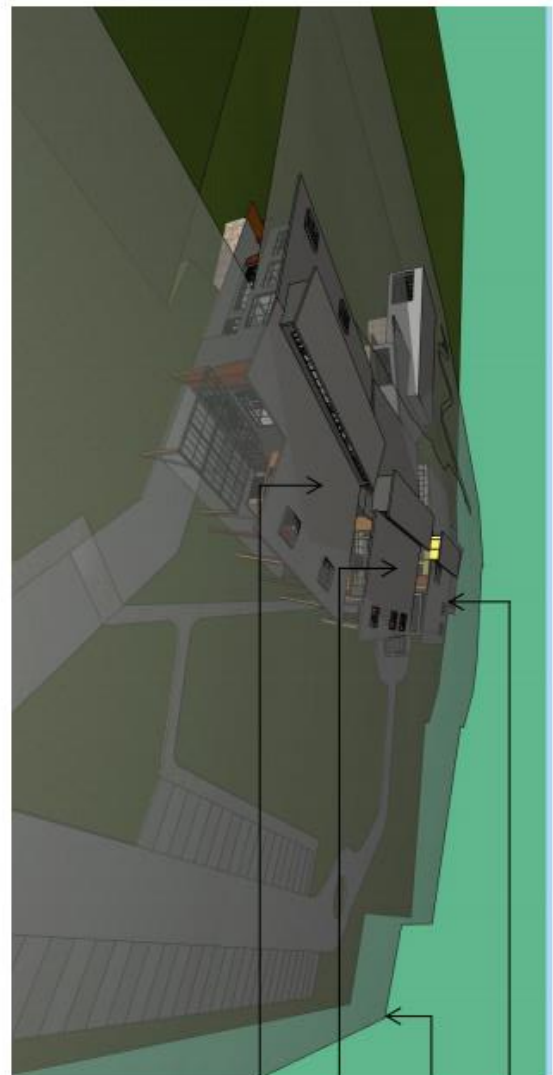
Project: SHADOW DIAGRAMS
Client: ST GABRIEL'S SCHOOL

Scale: 1:2000 @ A3
Project: 1336
DA - A600

02

DA PURPOSE ONLY
NOT FOR CONSTRUCTION

ATTACHMENT 19 – BUILDING HEIGHT PLANE DEPICTING HEIGHT NON-COMPLIANCE

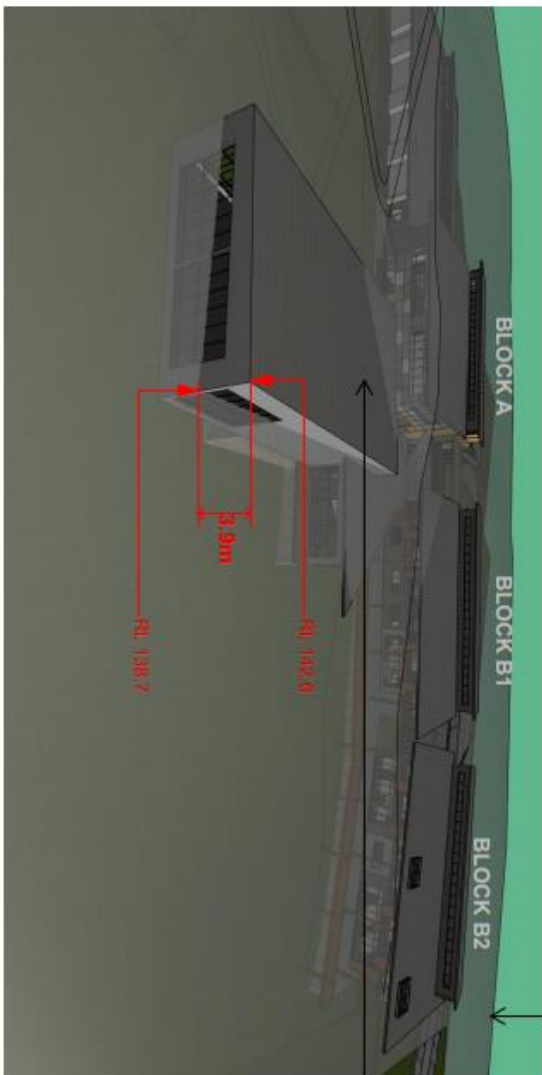


2 STOREY ADDITION TO BLOCK A

9m BUILDING HEIGHT PLANE
SHOWN TRANSPARENT IN LIGHT GREY

BLOCK B1
2 STOREY NEW BUILDING

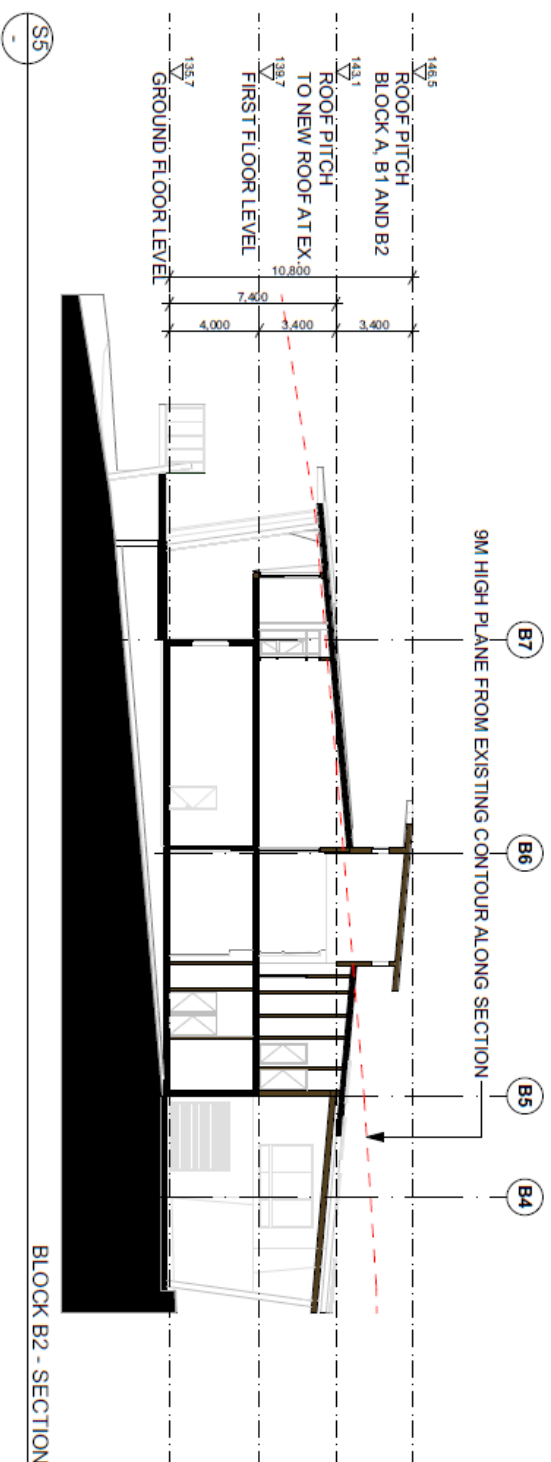
BLOCK B2
2 STOREY NEW BUILDING



9m BUILDING HEIGHT PLANE
SHOWN TRANSPARENT IN LIGHT GREY

BLOCK C
SINGLE STOREY BUILDING

**ATTACHMENT 20 – SECTIONS DEPICTING BUILDING HEIGHT NON-COMPLIANCE OF
BLOCK B2**



DATA PURPOSE ONLY
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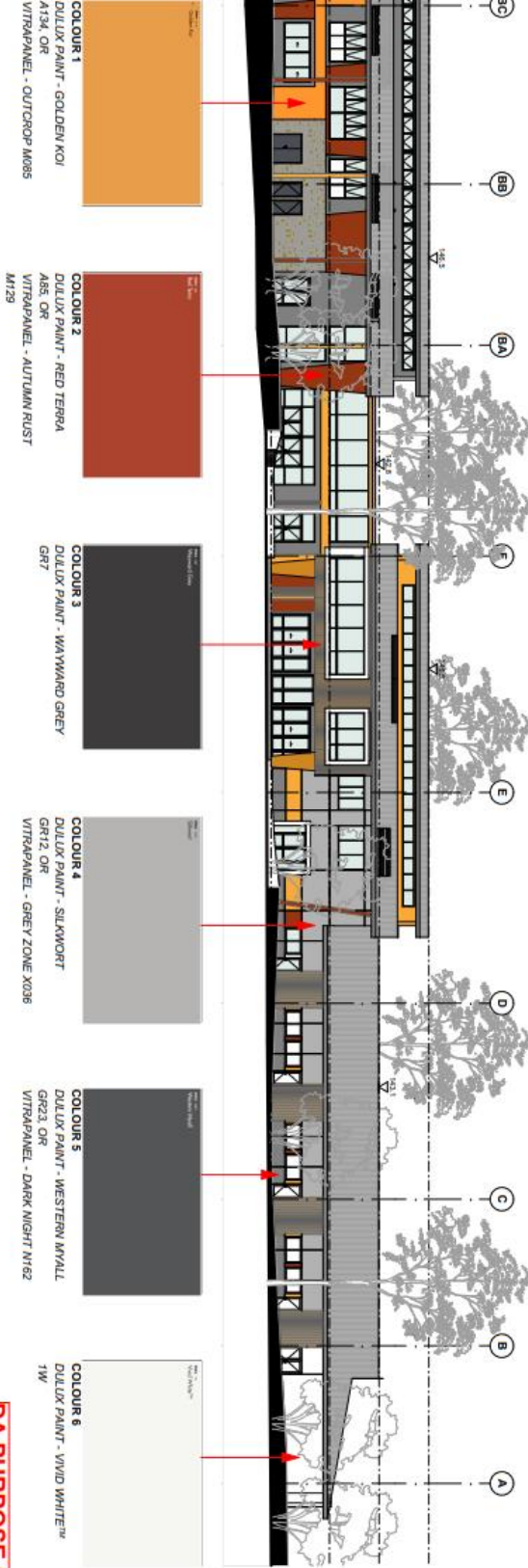
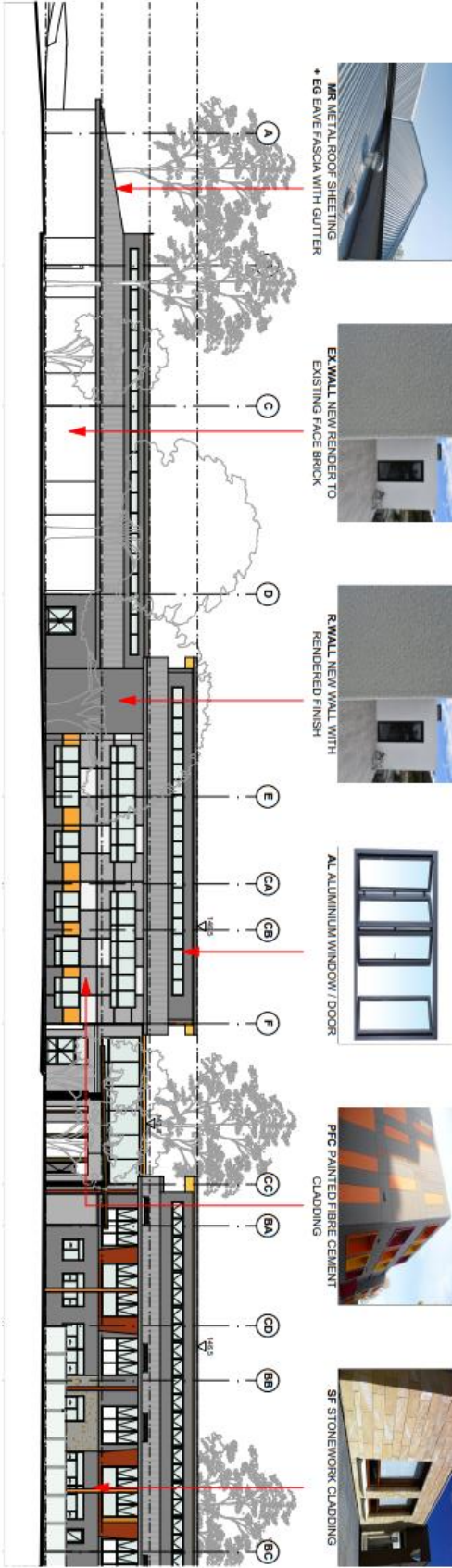
GLDENENING SZOBOSZLAY ARCHITECTS A: 12003 Párizs 1, 1047 Budapest, 1071 Budapest T: 06 30 420 212 E: info@szoboszlay.com W: www.szoboszlay.com		01 DA:1806 FOR DA:1806 90% 600/200		12.000 m² 12.000 m² 12.000 m² 12.000 m²		01 1336	
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11. CLIENT: ST GABRIEL'S SCHOOL 12. PROJECT MANAGER: JAMES SZOBOSZLAY 13. DESIGNER: JAMES SZOBOSZLAY 14. CHECKED: JAMES SZOBOSZLAY 15. APPROVED: JAMES SZOBOSZLAY		16. PROJECT STATUS: 01 17. PROJECT PHASE: DESIGN 18. PROJECT BUDGET: \$1,000,000 19. PROJECT COMPLETION DATE: 31/12/2024		20. DRAWING STATUS: 01 21. DRAWING PHASE: DESIGN 22. DRAWING BUDGET: \$1,000,000 23. DRAWING COMPLETION DATE: 31/12/2024	

ATTACHMENT 21 – LANDSCAPE PLAN



NOTE

1. This drawing is a preliminary design and is not to be used for construction without the approval of the relevant authorities. It is the responsibility of the client to ensure that all necessary approvals are obtained before construction commences.

2. The client is responsible for ensuring that all necessary approvals are obtained before construction commences.

3. The client is responsible for ensuring that all necessary approvals are obtained before construction commences.

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02	DA ISSUE	13/06/2019
01	DA CONSULTANTS BRIEF	29/06/2019

03/06/2019

PROJECT NAME	ST GABRIEL'S SCHOOL
PROJECT NUMBER	1336
DA - A900	

EXTERNAL FINISHES SCHEDULE

1:300 @ A3

02

DA - A900

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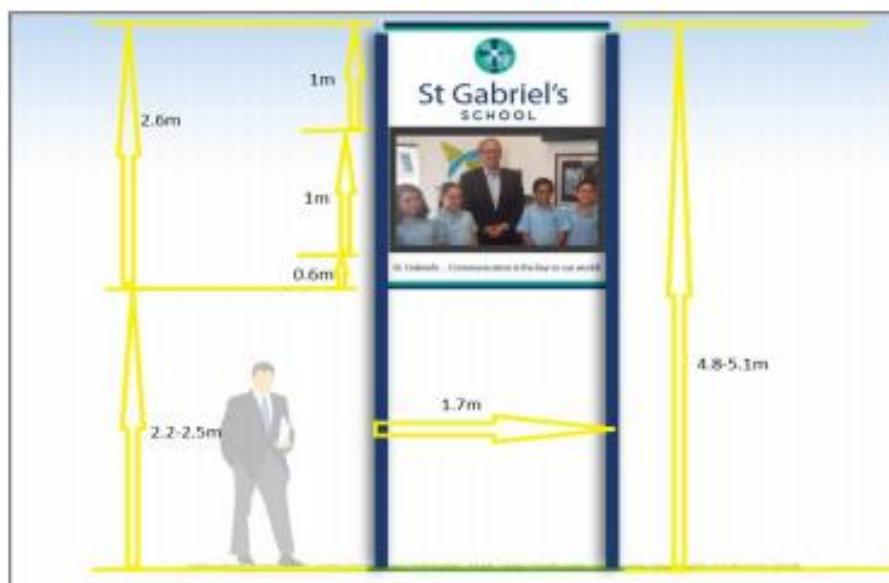
NEW SIGNAGE B

STATIC SIGN AS PER SPECIFICATION
BELOW



NEW SIGNAGE A

DIGITAL LED DISPLAY AS PER
SPECIFICATION BELOW



ATTACHMENT 24 – PHOTOMONTAGES



ATTACHMENT 25 – CLAUSE 4.6 VARIATION



planning consultants

4 October 2019
Our Ref: 20481A.7SW_CI 4.6 height

The General Manager
The Hills Shire Council
3 Columbia Court
Norwest NSW 2153

Dear Sir

**RE: WRITTEN REQUEST FOR EXCEPTION TO A DEVELOPMENT STANDARD
BUILDING HEIGHT DEVELOPMENT STANDARD
PROPOSED WORKS TO ST GABRIEL'S SCHOOL
190 OLD NORTHERN ROAD, CASTLE HILL**

1.0 Introduction

DFP Planning has been commissioned by Edmund Rice Special Education Services to prepare a request pursuant to clause 4.6 of *The Hills Local Environmental Plan 2012* (THLEP 2012) in respect of the proposed works at St Gabriel's School, including demolition of an existing building, and alterations and additions to the existing educational establishment to provide for additional students, included 84 primary students and 120 high school students. St Gabriel's School is located at 190 Old Northern Road, Castle Hill (also known as 19-37 Marie Street, Castle Hill).

This written request relates to a variation to the building height development standard that applies to the site.

2.0 The Hills Local Environmental Plan 2012

2.1 Subclause 4.6(1) – Flexibility and Better Outcomes

Subclause 4.6(1) of the LEP states the objectives of the clause as follows:

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development, and*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances."*

Our response to these provisions is contained within this submission.

2.2 Subclause 4.6(2) – Consent may be granted

Subclause 4.6(2) provides that:

- (2) *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.*

The height of buildings development standard is not expressly excluded from the operation of clause 4.6 and accordingly, consent may be granted.

2.3 Subclause 4.6(3) – Written Request

Subclause 4.6(3) relates to the making of a written request to justify an exception to a development standard and states:

- "(3) 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."*

The proposed development does not comply with the 9 metre height of buildings development standard pursuant to clause 4.3 of HLEP 2012 however, strict compliance is considered to be unreasonable and unnecessary in the circumstances of this case as justified in this written request.

2.4 Subclause 4.6(4) – Written Request

Subclause 4.6(4) provides that consent must not be granted for development that contravenes a development standard unless:

- "(a) the consent authority is satisfied that:*
- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) the concurrence of the Secretary has been obtained."*

Furthermore, subclause 4.6(5) provides that in deciding whether to grant concurrence, the Secretary must consider:

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) the public benefit of maintaining the development standard, and*
- (c) any other matters required to be taken into consideration by the Secretary before granting concurrence."*

The remainder of this written request for exception to the development standard addresses the matters required under subclauses 4.6(4) and 4.6(5) of the LEP.

3.0 The Nature of the Variation

Clause 4.3(2) of HLEP 2012 sets out the building height limit as follows:

"the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map"

The Height of Buildings Map identifies the site as having a maximum building height of 9 metres.

HELP 2012 defines building height (or height of buildings) as follows:

- (a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or
- (b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

With respect to the development, Blocks A, B1 and B2 extend above the building height line however the greatest breach is Block C at the south-east corner of the building, resulting in a building which exceeds the maximum building height control of 9 metres as shown on the height plane diagram prepared by Glendenning Szoboszlay Architects (**Figure 1**). The highest point of Block C is RL 142.6 which results in a maximum height from natural ground level of 12.9m, a maximum variation of 3.9m or 43.3%.

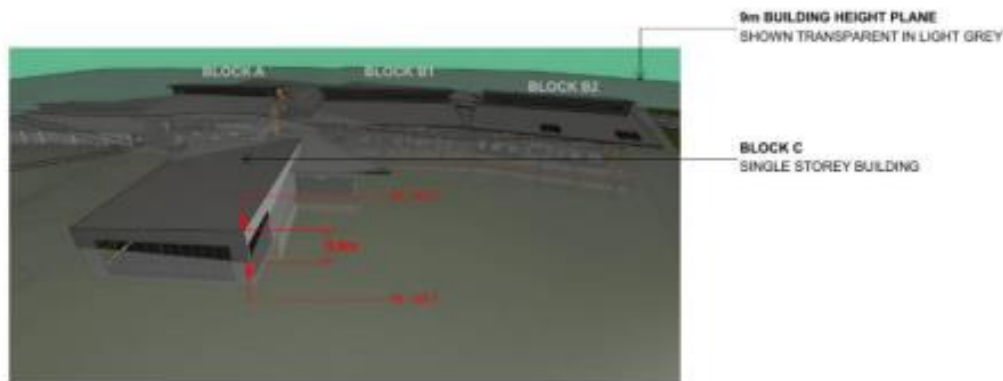


Figure 1 Extract of Height Plane Diagram showing the proportion of the development that exceeds the height limit (prepared by Glendenning Szoboszlay Architects)

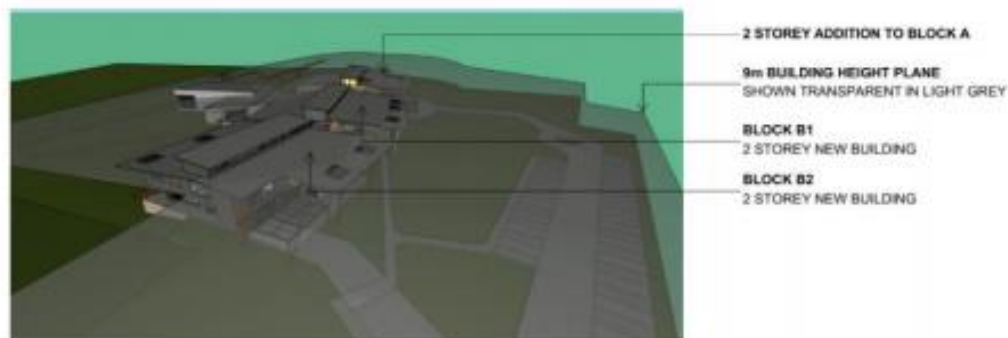


Figure 2 Height plane diagram shown from the eastern side of the site, looking west

The height plane diagrams above in **Figure 1** and **Figure 2** illustrate the portions of the development that exceeds the maximum 9 metre building height. The areas shaded are below the 9 metre height limit, and the areas protruding through the height limit generally are limited to the roof form and clerestory pop-ups of Blocks A, B1 and B2.

Due to the natural ground level on the site, Block B1 has the second greatest variation as shown in **Figure 3**. Block B1 has a maximum height of 11.4 metres (variation of 2.4 metres or 26.7%).

BLOCK B1

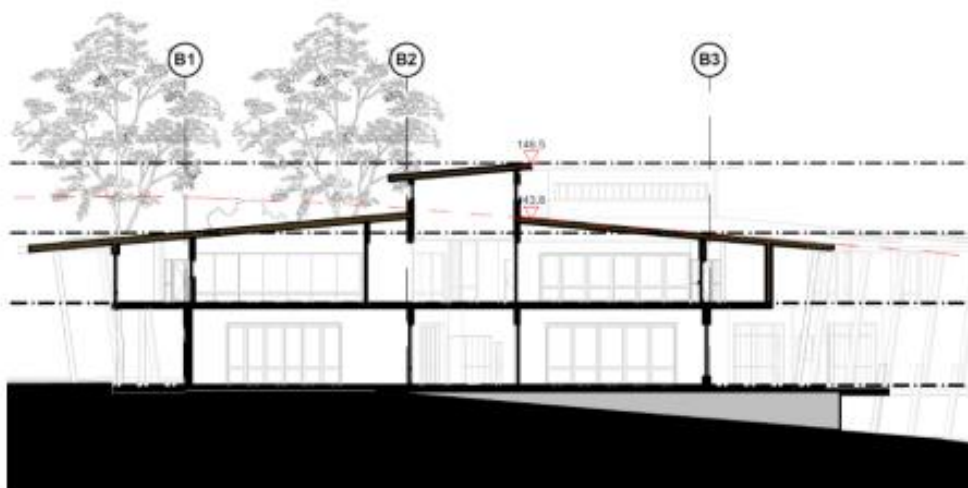


Figure 3 Section of Block B1 which shows variation in height

With respect to the remainder of the development, Block A has a maximum height of 10.7 metres (variation of 1.7 metres) and Block B2 has a maximum height of 11.2 (variation of 2.2 metres) as shown in **Figure 4** below.



Figure 4 Extract of long section which shows the variation of height with respect to Blocks A, B1 and B2. Natural ground level shown in the red dashed line.

4.0 Relevant Case Law

The proposed variation to the development standard has been considered in light of the evolving methodology and "tests" established by the NSW Land & Environment Court (the Court) including the following cases:

- Winten Developments Pty Ltd v North Sydney Council [2001]
- Wehbe v Pittwater Council [2007]
- Four2Five Pty Ltd v Ashfield Council [2015]

- Randwick City Council v Micaul Holdings Pty Ltd [2016]
- Moskovich v Waverley Council [2016]
- Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118

The Land and Environment Court of NSW, through the Judgment in Winten Developments Pty Ltd v North Sydney Council [2001], established a '5-part test' for considering whether strict compliance with a development standard is unreasonable or unnecessary in a particular case. This 5-part test was later supplemented by the Judgment in Wehbe v Pittwater Council [2007] where Chief Justice Preston expressed the view that there are 5 different ways in which an objection to a development standard may be assessed as being well founded and that approval of the objection is to be consistent with the aims of the policy (being State Environmental Planning Policy No. 1 Development Standards (SEPP1)).

Whilst these Judgments related to variation requests under SEPP 1, the methodology and reasoning expressed in those Judgments continues to be the accepted basis upon which to assess variation requests pursuant to clause 4.6 and accordingly, we have applied this methodology to the assessment below.

5.0 Assessment of the Variation and Grounds of the Objection

The proposed variation to the building height development standard has been considered in light of the above Court cases, the objectives of the development standard and the R2 Low Density Residential zone, and potential environmental impacts.

5.1 Step 1 – Is the planning control a development standard?

This question is the 1st 'test' in Winten. The height of building development standard in clause 4.3 of The Hills LEP 2012 is a development standard as, defined in Section 1.4 of the EP&A Act as follows:

"development standards means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:

- (a) ...
 - (b) ...
 - (c) *the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,*
-"

The maximum height of buildings control of 9 metres in clause 4.3 of The Hills LEP 2012 is a development standard.

5.2 Step 2 – Pursuant to clause 4.6(4)(a), is the consent authority satisfied that the written request adequately addresses the matters in Clause 4.6(3)?

The matters in clause 4.6(3) are:

- (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."*

The elements of the school buildings that exceed the building height development standard are located such that they will not cause adverse impacts on the built environment or the amenity of



nearby properties. Specifically, the residential properties to the east of the school on San Giorgio Circuit, are not significantly adversely affected in terms of overshadowing impacts and any privacy/overlooking impacts have been mitigated through the design and (existing) screen landscaping (easement). Upper level eastern windows are limited to circulation area (hallway) and a single classroom, the eastern elevation of Block B2 is setback almost 12 metres from the neighbours to the east, whilst Block C (the hall) is setback approximately 60 metres to the eastern neighbours. The school has limited visibility from the public domain.

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 contemporary educational facility that suits the needs of school. The two-storey development has been designed to consider the low density residential context of the immediate locality, specifically the eastern residential neighbours which consist of two storey dwellings, as well as the adjoining Gilroy Catholic College school campus to the west. The two-storey scale of the development has suitable setbacks and landscaping. The single storey hall (Block C) which has the greatest exceedance in height due to the fall of the land in that particular location. Block C has been setback from the eastern boundary by approximately 60 metres.

The development has been designed to link from the existing Block A, and the new Blocks B1, B2 and C which require a continuation of existing ground floor levels to meet the access requirements for the students of St Gabriel's, therefore 'stepping' the buildings is not possible in this instance and ramping would result in an undesirable outcome that does not provide for an efficient use of space. Overall, the development responds to the specific needs of the students of St Gabriel's, including the requirement for gradient levels for access requirements, as well as providing appropriate floor-to-ceiling heights within the school, and clerestory pop-up features which provides natural light to circulation areas, as well as a sense of openness. This is considered to be a good planning outcome.

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 buildings maintains the desirable attributes and is not out of character with the area, specifically Gilroy College to the west of St Gabriel's which has school buildings of various heights, many of which exceed the 9 metre height limit;
- The building heights do not result in any significant overshadowing or loss of privacy of nearby residential properties;
- Due to the siting of the development, the existing landscaping and the significant setback from Old Northern Road, the school is not readily visible from the public domain. Landscaping along Excelsior Avenue screen the development from the south. It is noted that San Giorgio Circuit is a private road, nevertheless, a landscape easement is provided along the eastern boundary, which provides a natural screen to the development. Notwithstanding, the development has been designed to contribute positively to the streetscape and visual amenity of the area; and
- The building will not overshadow any public open spaces or public domain areas.

Furthermore, strict compliance with the building height development standard would limit the ability to provide high quality cohesive learning spaces with the required access requirements. If the buildings were single storey it would result in an inefficient use of the land and reduce at grade open space if located on the northern portion of the site, or would require 'stepping' down if located on the southern portion of the site (which would then require significant ramping to provide access).



Compliance with the building height development standard would result in an inferior design outcome where additional buildings with a larger footprint would occupy more of the site, thus reducing pervious areas and outdoor spaces. As discussed below, the maximum variation is due to the need to provide suitable learning spaces in a built form which responds appropriately to contemporary teaching techniques whilst also addressing the special needs of the students at St Gabriel's. Strict compliance with the development standard would prevent the achievement of these design outcomes.

Compliance with the 9m building height development standard is also considered unnecessary in this instance as the height 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.

5.2.1 Step 3 - Pursuant to cl4.6(4)(b), is the consent authority satisfied that the development will be in the public interest because it is consistent with the objectives of the development standard and the objectives of the zone?

The Objectives of Building Height Development Standard

The objectives of the maximum height of buildings standard in Clause 4.3(1) are:

- (a) *to ensure the height of buildings is compatible with that of adjoining development and the overall streetscape,*
- (b) *to minimise the impact of overshadowing, visual impact, and loss of privacy on adjoining properties and open space areas.*

In terms of objective (a), 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 attending St. Gabriel's School which is a special needs school. It is noted that the local character of the area, specifically the residential development to the east is generally detached two storey dwellings. Having regard to the building height controls with the area, it is considered that the proposed building, which has limited visibility from the public domain (Old Northern Road) is acceptable in this instance.

Overall, the proposal has been designed to provide an efficient built form which responds appropriately to the needs of its students and contemporary teaching techniques without resulting in significant adverse impacts.

In terms of objective (b), as demonstrated in the shadow diagrams submitted with the development application (**Figure 5**), given the orientation of the site and the location of the proposed school extension, shadows resulting from the proposed development will be contained within the bounds of the site until after midday. Therefore, the proposal is not considered to result in an unacceptable impact upon solar access, as the proposal will not reduce solar access for any property to less than 3 hours during the day in mid-winter.

The development to east, specifically No. 17 San Giorgio Circuit will not be overshadowed by the development between 9am and midday in mid-winter, however it will be overshadowed later in the afternoon, however it is noted that its private outdoor space, located to the north of the dwelling will still have solar access to more than 50% of its rear year in mid-winter at 3pm.



Figure 5 Overshadowing diagrams for Winter Solstice at 9am, 12pm and 3pm

The appearance of St Gabriel's has carefully considered the site and its residential location, as well as providing contemporary school facilities which meet the current and future needs of the school and its catchment.



Figure 4: Perspective of St Gabriel's main entrance (northern elevation)

The residential properties to the east of the school on San Giorgio Circuit are not significantly adversely affected in terms of privacy and overlooking, as these impacts have been mitigated through the design and (existing) screen landscaping along the easement.

The upper level eastern windows are limited to circulation area (hallway) and a single classroom, the eastern elevation of Block B2 is setback almost 12 metres from the neighbours to the east, whilst Block C (the hall) is setback approximately 60 metres to the eastern neighbours. As the school facilities will be used during standard school hours under teacher supervision, it is considered that the proposal will not result in significant adverse impacts relating to visual privacy for residential properties on San Giorgio Circuit.

It is considered that the proposed development will not result in any adverse impacts to the heritage building, located to the west of the St. Gabriel's school building. As public views of the heritage item from the east are already obscured from public view by trees, the key façade is already hidden from view from trees. The proposed development at St Gabriel's will not compete with the character of the heritage building at Gilroy College. The two schools, although on the same lot, operate independently.

Objectives of the Zone

The Land Use Table of The Hills LEP 2012 states the zone objectives of the R2 Low Density Residential zone as follows:

To provide for the housing needs of the community within a low density residential environment.

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

To maintain the existing low density residential character of the area.

The objectives of the zone do not specifically address building height but relate to encouraging other forms of land uses to service or meet the day to day needs of residents. The ability of the proposed works to achieve these zone objectives is not affected by the proposed building height variation.

Objectives of The Hills LEP 2012

Clause 1.2(2) of The Hills LEP 2012 sets out the following aims:

- (a) *to guide the orderly and sustainable development of The Hills, balancing its economic, environmental and social needs,*
- (b) *to provide strategic direction and urban and rural land use management for the benefit of the community,*
- (c) *to provide for the development of communities that are liveable, vibrant and safe and that have services and facilities that meet their needs,*
- (d) *to provide for balanced urban growth through efficient and safe transport infrastructure, a range of housing options, and a built environment that is compatible with the cultural and natural heritage of The Hills,*
- (e) *to preserve and protect the natural environment of The Hills and to identify environmentally significant land for the benefit of future generations,*
- (f) *to contribute to the development of a modern local economy through the identification and management of land to promote employment opportunities and tourism.*

It is considered that the proposal will uphold the aims of the LEP for the following reasons:

- (a) – The proposal will result in an orderly and sustainable development which meets to social needs and education needs of the locally community by providing a high quality

contemporary educational establishment for children with special needs. The additions to St Gabriel's will provide much needed classroom space for high school students that is desperately needed in Castle Hill and surrounding areas.

- (b) – The proposal is a permissible form of development in the R2 zone and is of a design and type that is not inconsistent with the existing and desired future character of the area. The school re-development provides for a high quality learning environment that will enhance the quality of life for residents with special needs.
- (c) – The proposal provides a specialised facility that meets the educational needs of the students with disabilities in the locality.
- (d) – The proposed built environment associated with the existing educational establishment has been carefully designed to provide an appropriate built form which does not detract from the existing heritage item on the site associated with Gilroy College.
- (e) – Not applicable.
- (f) – The proposal has the opportunity to provide for future employment opportunities for existing and future residents.

5.3 Step 4 – Clause 4.6(4)(b) – The Concurrence of the Secretary has been obtained

On 21 February 2018, the Secretary of the Department of Planning and Environment issued a Notice ('the Notice') under clause 64 of the Environmental Planning and Assessment Regulation 2000 (the EP&A Regulation) providing that consent authorities may assume the Secretary's concurrence for exceptions to development standards for applications made under clause 4.6 of the Standard Instrument LEP or SEPP 1 subject to certain conditions.

The Secretary's concurrence may not be assumed by a delegate of council if:

- the development contravenes a numerical standard by greater than 10%; or
- the variation is to a non-numerical standard.

The proposed extension of St Gabriel's comprises a built form resulting in a development which exceeds the maximum building height control of 9 metres. Block C (the school hall) has a maximum height of 12.9m - a maximum variation of 3.9m or 43.3%.

In any event, the DA will need to be determined by the Sydney Central City Planning Panel due to the type (Crown development) and cost (greater than 5 million dollars) of the proposed development. The above restrictions do not apply to decisions made by the Planning Panel.

5.4 Step 5 – Clause 4.6(5) – Concurrence Considerations

In the event that concurrence cannot be assumed pursuant to the Notice clause 4.6(5) of the LEP also requires the Secretary, in deciding whether to grant concurrence, to consider the following:

- "(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning,"*

The proposed non-compliance does not of itself raise any matter of significance for State or regional environmental planning.

- "(b) the public benefit of maintaining the development standard, and"*



The proposed variation does not set a precedent given the educational use of the site, and the specific land use requirements of the school. In this instance there is not considered to be a public benefit in maintaining the development standard.

"(c) any other matters required to be taken into consideration by the Secretary before granting concurrence."

It is considered that there are no other matters of relevance that need to be taken into consideration.

6.0 Conclusion and Recommendations

We have assessed the proposed building height variation against the relevant statutory provisions of clause 4.6 of The Hills LEP 2012 and prepared this written request which provides justification that compliance with the 9 metre building height development standard is unreasonable and unnecessary in the circumstances of the case.

Strict compliance with the height control would limit the ability to provide specialised high quality learning spaces and result in an inefficient use of the land. The significant extent of the non-compliance results from the sloping nature of the site. A compliant development would result in an inferior design outcome whereby additional smaller buildings would occupy more of the site, limiting pervious areas and reducing outdoor spaces and resulting in the construction of significant ramping to provide access.

The non-compliance with the building height limit does not generate any significant adverse solar access or overshadowing impacts to adjoining residential properties to the east or public areas. Given the location of the school on the site and existing vegetation the development has limited visibility from the public domain, specifically Old Northern Road and Excelsior Avenue. Overall, the proposal provides a high quality educational establishment that meets the needs of its students.

Accordingly, the justification within this written request is considered to be well founded.

Should you have any queries please do not hesitate to contact the undersigned.

Yours faithfully
DFP PLANNING PTY LTD


SANDA WATTS
PRINCIPAL PLANNER

swatts@dfpplanning.com.au

Reviewed: 

ATTACHMENT 26 – TRANSPORT FOR NSW COMMENTS/CONDITIONS



Transport
for NSW

9 June 2020

TfNSW Reference: SYD19/01357/04 (A32691134)
Council Reference: 456/2020/JP

The General Manager
The Hills Shire Council
PO Box 7064
BAULKHAM HILLS NSW 2153

Attention: Justin Keen

Dear Sir/Madam,

ADDITIONAL INFORMATION – ALTERATIONS AND ADDITIONS TO ST GABRIEL'S SCHOOL - 190 OLD NORTHERN ROAD, CASTLE HILL

Reference is made to Council's correspondence and additional information and revised plan submitted by the proponent dated 27 May 2020 and 2 June 2020 (attached email), regarding the abovementioned application which was referred to Transport for NSW (TfNSW) for concurrence in accordance with Section 138 of the *Roads Act, 1993*.

TfNSW has reviewed the submitted additional information and grants concurrence to the proposed left in/left out access on Old Northern Road (attached plan, DWG No. DA7.01 REV 5 dated 2 June 2020) under Section 138 of the *Roads Act 1993* subject to the following conditions being included in any consent issued by Council:

1. TfNSW has previously acquired a strip of land for road along the Old Northern Road frontage of the subject property, as shown by blue colour on the attached Aerial –"X". All buildings and structures (including signage), together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited in height or depth), along the Old Northern Road boundary.
2. The proposed left in/left out access on Old Northern Road shall be designed to meet TfNSW requirements, and endorsed by a suitably qualified practitioner. The design requirements shall be in accordance with AUSTROADS and other Australian Codes of Practice. The certified copies of the civil design plans shall be submitted to TfNSW for consideration and approval prior to the release of the Construction Certificate by the Principal Certifying Authority and commencement of road works. Please send all documentation to development.sydney@rms.nsw.gov.au

The developer will be required to enter into a Works Authorisation Deed (WAD) for the abovementioned works.

TfNSW fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of work.

3. Detailed design plans and hydraulic calculations of any changes to the TfNSW stormwater drainage system are to be submitted to TfNSW for approval, prior to the commencement of any works. Please send all documentation to development.sydney@rms.nsw.gov.au

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued.

4. The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.
5. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Old Northern Road.
6. A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Old Northern Road during construction activities.
7. All vehicles are to enter and exit the site in a forward direction. Provision for vehicles to turn around must be provided within the property boundary.
8. All works/regulatory signposting associated with the proposed development are to be at no cost to TfNSW.

Furthermore, TfNSW has the following comments for Council's consideration in the determination of the application:

9. A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council for determination prior to the issue of a construction certificate.
10. The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1- 2004 and AS 2890.2-2002 for heavy vehicle usage.
11. It is noted the largest vehicle accessing the site is MRV and no buses will access the site. The swept path of the largest vehicle entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval which shows that the proposed development complies with this requirement.