

## COUNCIL ASSESSMENT REPORT

### SYDNEY CENTRAL CITY PLANNING PANEL

<b>PANEL REFERENCE &amp; DA NUMBER</b>	PPSSCC-418 - DA 1070/2023/JP
<b>PROPOSAL</b>	Demolition of Existing Structures and Construction of a Three Storey Building and Hall for Castle Hill Public School
<b>ADDRESS</b>	Lot 1 DP 802735, Castle Hill Public School, 5 Les Shore Place, Castle Hill
<b>APPLICANT</b>	Architectus Group Pty Ltd
<b>OWNER</b>	Minister for Education and Youth Affairs
<b>DA LODGEMENT DATE</b>	16 January 2023
<b>APPLICATION TYPE</b>	Development Application – Crown DA
<b>REGIONALLY SIGNIFICANT CRITERIA</b>	Clause 4, Schedule 6 of the SEPP (Planning Systems) 2021: Crown development with a Capital Investment Value of more than \$5 million
<b>CIV</b>	\$31,341,000.00 (excluding GST)
<b>CLAUSE 4.6 REQUESTS</b>	Clause 4.3 – Building Height
<b>KEY SEPP/LEP</b>	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>• The Hills Local Environmental Plan 2019</li> <li>• The Hills Development Control Plan 2012</li> </ul>
<b>TOTAL &amp; UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS</b>	1 submission received. Key issues: <ul style="list-style-type: none"> <li>- Stormwater;</li> <li>- Landscaping;</li> <li>- Emergency Access Road;</li> <li>- Contamination; and</li> <li>- Traffic and parking.</li> </ul>
<b>DOCUMENTS SUBMITTED FOR CONSIDERATION</b>	Architect: Woods Bagot Town Planner: Architectus Landscape Architect: Urbis Aboriginal and Archaeological: Tocomwall Surveyor: TSS Contamination: Douglas Partners Acoustic: Norman Disney and Young

	Arborist: Arboreport Flora & Fauna: Eco Logical Australia Engineering: TTW Quantity Surveyor: W&W Traffic: Cardno Waste: Eccell
<b>SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)</b>	The proposal is not subject to the payment of a Special Infrastructure Contribution under Section 7.24 of the Environmental Planning and Assessment Act 1979.
<b>RECOMMENDATION</b>	Approval
<b>DRAFT CONDITIONS TO APPLICANT</b>	Yes
<b>SCHEDULED MEETING DATE</b>	Electronic determination
<b>PREPARED BY</b>	Sophia Brown – Senior Town Planner
<b>DATE OF REPORT</b>	31 October 2023
<b>CONFLICT OF INTEREST DECLARATION</b>	None Declared

## EXECUTIVE SUMMARY

The Development Application seeks consent for the demolition of existing structures and construction of a three storey classroom building for Castle Hill Public School comprising of thirty six (36) new General Learning Spaces (GLS), the construction of a new hall to include a COLA and canteen, earthworks, new landscaping and tree planting, ramping and pathways.

The application is referred to the Sydney Central City Planning Panel ('the Panel') as the development is '*regionally significant development*', pursuant to Clause 4 of Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021 as the proposal is Crown development with a Capital Investment Value of more than \$5 million.

Clause 4.3 of the The Hills LEP prescribes a maximum height of 10 metres for the subject site. The proposed development exceeds the maximum building height by 4.8 metres or 48%. 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 recommended that the applicant's Clause 4.6 written request to vary Clause 4.3(2) development standard of The Hills LEP 2019 is supported as it adequately justifies the contravention of the development standard having regard to the requirements of Clause 4.6(3). The height exceedance only relates to a building which is not visible from the streetscape and it is considered that the variation can be supported as technical compliance with the standard is unreasonable or unnecessary in this instance and the proposal results in a better environmental planning outcome as outlined in this report. Further, having regard to Clause 4.6(4), the development is consistent with the objectives of the standard and the objectives for development within the zone and is therefore in the public interest. In this regard, the submitted Clause 4.6 request to vary a development standard is considered to be well-founded.

The application was notified to adjoining properties from 17 January 2023 to 8 February 2023, with one (1) submission received. The submission raised issues relating to stormwater, landscaping, emergency access road, contamination, traffic and parking. These issues are considered further in this report and do not warrant refusal of the application.

Section 3.58 of State Environmental Planning Policy (Transport and Infrastructure) 2021 requires traffic generating development that involves the addition of 50 or more students to be referred to TfNSW. The development increases the student numbers from 1,147 to 1,200 students increasing the number of students by 53, therefore referral to TfNSW is required. TfNSW has provided concurrence and raises no objection to the proposal subject to conditions of consent.

In accordance with Clause 4.33 Determination of Crown development application of the EP&A Act, a consent authority (other than the Minister) must not impose a condition on its consent to a Crown development application, except with the approval of the applicant or the Minister. In accordance with Clause 4.33 of the EP&A Act, the applicant's response to Council Staff's recommended conditions has been provided under Attachment B.

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

## **1. THE SITE AND LOCALITY**

The subject site is situated on Lot 1 DP 802735 and is known as 5 Les Shore Place, Castle Hill or Castle Hill Public School. The site measures 132 metres x 228 metres with a total area of 30,009m<sup>2</sup>. Vehicle and pedestrian access to the site is via Les Shore Place.

The topography of the subject site generally rises from the southern corner, across the site to the north eastern corner. The subject site accommodates a level change of approximately 15 metres.

The site is located in the R2 Low Density Residential and R3 Medium Density Residential zone pursuant to Clause 2.2 of The Hills Local Environmental Plan 2019. Development for the purpose of a school is permissible with consent under Clause 3.36(1) of State Environmental Planning Policy (Transport and Infrastructure) 2021 on land zoned R2 Low Density Residential.

The site is located in Castle Hill North Precinct and adjoins R3 Medium Density Residential zones to the north, south and west, and adjoins RE1 Public Recreation to the east. The site is located in a low density residential area comprising of one to two storey dwellings, Maurice Hughs Reserve is located to the north and west of the site, and to the east is a car park and local shopping centre 'Castle Towers'. Castle Hill Transport Interchange is located approximately 700 metres to the south of the school. The school is accessible by bus services. School buses stop in front of the site within the school bus zone on Les Shore Place and public bus stops are located a minimum 100-200 metres from the site along the surrounding streets. Castle Hill Metro Station is located approximately 500m to the south east of the school.

Under The Hills Local Environmental Plan 2019 (THLEP 2019), the site has maximum height limit of 9 metres under Clause 4.3 of THLEP 2019. There is no maximum floor space ratio development standard for the site.

An aerial photograph of the subject site is outlined in red below (refer Figure 1):





Figure 1: Aerial Photograph with subject site outlined in red.

## 2. THE PROPOSAL AND BACKGROUND

### 2.1 The Proposal

The Development Application seeks consent for the demolition of existing structures and construction of a three storey building and hall for Castle Hill Public School and includes:

- Construction of a three storey classroom building, comprising of thirty six (36) new GLS;
- Construction of a new hall to include COLA and Canteen; and
- Earthworks, new landscaping including tree planting, ramping and pathways.



Clause 4.3 of the LEP prescribes a maximum height of 10 metres for the subject site. The proposed development exceeds the maximum building height by 4.8 metres or 48%. The subject application is accompanied by a written request to vary the building height development standard pursuant to Clause 4.6 of the LEP.

The key development data is provided in Table 1 below:

**Table 1: Development Data**

Control	Proposal
Site area	30,095m <sup>2</sup>
GFA	8,079m <sup>2</sup>
Clause 4.6 Requests	Yes – Clause 4.3 of THLEP 2019 - Building Height
Student Capacity	Existing: 1,147 students Proposed: 1,200 students
Staff	Existing: 75 Proposed: 80
Max Height	A maximum building height of 10 metres is required for the site. The maximum height of the development is 14.8 metres.
Play space	Existing: 16,893m <sup>2</sup> Proposed: 15,927m <sup>2</sup> *
Car Parking spaces	61 spaces + 1 disabled space (no change to existing)
Setbacks	8 metres to northern boundary; and 8 metres to eastern boundary.

*\*Note: All demountables are proposed to be removed under a REF post-DA which results in more space available for play space.*

## 2.2 Background

A pre-lodgement meeting was held on 23 September 2022 for upgrades to Castle Hill Public School including the construction of a new three storey building to replace the existing demountable structures and provide additional classrooms and the refurbishment of two existing building blocks.

The subject Development Application was lodged on **16 January 2023**. A chronology of the development application since lodgement is outlined below including the Panel's involvement (briefings, deferrals etc) with the application:

**Table 2: Chronology of the DA**

Date	Event
16 January 2023	DA lodged
17 January 2023	Notification of the application. 1 submission received.
17 January 2023	DA referred to internal departments and external agencies.
28 February 2023	Request for Information from Council Staff sent to applicant regarding landscape/tree comments, Transport for NSW comments, colours and materials schedule and issues raised in submission to be addressed.
4 April 2023	Request for Information from Council Staff email sent to the applicant regarding traffic comments.
6 April 2023	Kick-off Panel briefing held.
23 May 2023	Meeting with applicant and Council Staff to discuss traffic comments.
23 June 2023	Request for Information from Council Staff email sent to the applicant regarding engineering comments.
28 June 2023	Meeting with applicant and Council Staff to discuss engineering comments.
3 August 2023	Additional information received in response to Request for information dated 28 February, 4 April and 23 June.
15 August 2023	Request for Information from Council Staff email sent to the applicant regarding tree/landscape comments.
1 September 2023	Additional information received in response to Request for information dated 15 August 2023.
12 September 2023	Request for Information from Council Staff email sent to the applicant regarding engineering and tree/landscape comments.  Meeting held with applicant to discuss engineering and tree/landscape comments.

Under Part 5 of the EP&A Act 1979, 30 existing demountable classrooms and associated utility services infrastructure are to be removed from the site.

### 3. STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and*

*Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

In accordance with Clause 4.33 Determination of Crown development application of the EP&A Act, a consent authority (other than the Minister) must not impose a condition on its consent to a Crown development application, except with the approval of the applicant or the Minister. In accordance with Clause 4.33 of the EP&A Act, written agreement has been provided from the Crown to the proposed conditions of consent (refer to Attachment B).

### 3.1 Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Planning Systems) 2021;*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021;*
- *State Environmental Planning Policy (Resilience and Hazards) 2021;*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021; and*
- *The Hills Local Environmental Plan 2019.*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 3** and considered in more detail below.

**Table 3: Summary of Applicable State Environmental Planning Policies**

EPI	Matters for Consideration	Comply (Y/N)
Planning System SEPP	<ul style="list-style-type: none"> <li><b>Section 2.19(1)</b> declares the proposal as regionally significant development pursuant to Clause 4 of Schedule 6.</li> </ul>	Y
Biodiversity and Conservation SEPP	<ul style="list-style-type: none"> <li>Chapter 2 Vegetation in non-rural areas and Chapter 6 Water Catchments.</li> </ul>	Y
Resilience and Hazards SEPP	<ul style="list-style-type: none"> <li><b>Clause 4.6</b> - Contamination and remediation has been considered in the Contamination Report and the proposal is satisfactory subject to conditions.</li> </ul>	Y



Transport and Infrastructure SEPP	<ul style="list-style-type: none"> <li>• <b>Clause 45</b> (Determination of development applications—other development) – electricity transmission - the proposal is satisfactory subject to conditions.</li> <li>• <b>Clause 102(2)</b> Impact of road noise or vibration on non-road development</li> <li>• <b>Clause 104(3)</b> - Traffic-generating development</li> </ul>	Y
LEP	<ul style="list-style-type: none"> <li>• <b>Clause 4.3</b> – Height of Buildings – N</li> <li>• <b>Clause 4.4</b> – Floor Space Ratio – N/A</li> <li>• <b>Clause 4.6</b> – Exception to development standards - Y</li> <li>• <b>Clause 7.2</b> – Earthworks</li> </ul>	N

#### State Environmental Planning Policy (Planning Systems) 2021

State Environmental Planning Policy (Planning Systems) 2021 applies to the proposal as it identifies if development is regionally significant development. In this case, pursuant to Clause 2.19(1) of the SEPP, the proposal is a regionally significant development as it satisfies the criteria in Clause 4 of Schedule 6 of the SEPP as the proposal is development for Crown development with a Capital Investment Value of more than \$5 million. Accordingly, the Sydney Central City Planning Panel is the determining authority for the application.

#### SEPP Biodiversity and Conservation

The aim of this plan is to protect the environment of the Hawkesbury-Nepean River Catchment by ensuring that the impacts of future land uses are considered in a regional context.

Through stormwater mitigation and erosion and sediment measures, the development is unlikely to have detrimental impacts on the health of the environment of the Hawkesbury and Nepean River Catchment.

#### State Environmental Planning Policy (Resilience and Hazards) 2021

The provisions of State Environmental Planning Policy (Resilience and Hazards) 2021 (RH SEPP) have been considered in the assessment of the development application. Clause 4.6 of RH SEPP requires consent authorities to consider whether the land is contaminated, and 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. A Stage 2 Detailed Site Investigation (DSI) was prepared for the site to consider the provisions of the SEPP.

Council's Environmental Health Team have reviewed the DSI and have raised no objections to the recommendations of the report.

#### State Environmental Planning Policy (Transport and Infrastructure) 2021

Section 3.36(1) of State Environmental Planning Policy (Transport and Infrastructure) 2021 permits development for the purpose of a school by any person with development consent on land in a prescribed zone. The subject size is zoned R2 Low Density Residential which is listed as a prescribed zone. The proposed alterations and additions to the existing school is permissible subject to consent being granted under Section 3.36(1) of State Environmental Planning Policy (Transport and Infrastructure) 2021.

Section 3.58 of State Environmental Planning Policy (Transport and Infrastructure) 2021 requires traffic generating development that involves the addition of 50 or more students to be referred to TfNSW. The development increases the student numbers from 1,147 to 1,200 students increasing the number of students by 53, therefore referral to TfNSW is required.

TfNSW raises no objection to the proposal subject to conditions of consent (refer to Condition No. 3 – Draft Development Consent Attachment A) addressing any proposed works on Pennant Street and/or modification to the Traffic Control Signal plan at the signalised intersection of Pennant Street/Les Shore Place and site eligibility for a School Crossing Supervisor.

Section 3.36(9) of State Environmental Planning Policy (Transport and Infrastructure) 2021 indicates that the provision of a development control plan that specifies a requirement, standard or control in relation to development of a kind referred to in subsection (1), (2), (3) or (5) is of no effect, regardless of when the development control plan was made. It is noted that The Hills DCP 2012 does not apply to the proposal, however the DCP controls have been considered as discussed within Section 3.3 of this report.

Section 3.36(6) of State Environmental Planning Policy (Transport and Infrastructure) 2021 states the following:

- (6) *Before determining a development application for development of a kind referred to in subsection (1), (3) or (5), the consent authority must take into consideration—*
- (a) *the design quality of the development when evaluated in accordance with the design quality principles set out in Schedule 8, and*
  - (b) *whether the development enables the use of school facilities (including recreational facilities) to be shared with the community.*

In accordance with the SEPP, the following design quality principles are to be considered:

***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 application includes an extensive, detailed landscape design that integrates with the school setting, and complements the existing landscape and residential zone. In addition, the proposal has been designed to respond to and enhance the existing setting and landscape of the site. Blocks E and H have been designed to ensure a sympathetic scheme in relation to the existing school, including maintaining the spatial organisation of buildings and proposed heights responding to the topography. The buildings have been designed taking into account the site conditions, including topography, orientation and climate.

The supporting landscape design has taken into account the design of the built form, whilst positively contributing to the on-site amenity, improving the existing streetscape amenity and

character, including mitigating any impacts on neighbouring residential properties. Existing landscaping will be retained and further embellished to ensure that the proposal will be sympathetic to the existing landscape setting, whilst the built form will be adequately screened from adjoining properties. The subject site, including school buildings and surrounding grounds are not identified as being located within a scenic protection area. Overall, the design responds to and enhances the existing setting of the school within a residential area that has been rezoned for higher density within the Castle Hill North Precinct.

**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 proposal provides for a high-quality educational environment for students and staff. The design of the development has considered the environmental, social and economic outcomes, whilst minimising the consumption of energy, water and other resources. The design maximises solar access with a north and west facing building, while also ensuring appropriate design methods are implemented to provide shade. The new buildings provide upgraded and improved learning spaces for students with natural light and ventilation provided to all learning spaces. Overall, the buildings have been designed to ensure a sustainable, efficient and durable outcome for the school.

**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.*

**Note—**

*Wayfinding refers to information systems that guide people through a physical environment and enhance their understanding and experience of the space.*

*Schools should actively seek opportunities for their facilities to be shared with the community and cater for activities outside of school hours.*

**Comment:**

The proposal seeks to actively improve the existing accessibility and the overall sense of inclusiveness with the provision of improved transition between levels. Improved accessibility is provided across the site with new ramps and pathways that create easy and logical paths of travel. The proposed buildings connect with the proposed Cola, existing shade structures and buildings and transition seamlessly between the outdoor play areas. Accessible compliant amenities are also provided for students, staff and visitors of the school. The proposal has demonstrated compliance with the above through the Access Report.

**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 health of students and staff has been considered by providing large learning and outdoor play areas, both covered and uncovered. Improved ventilation and natural light has been incorporated into the design by taking advantage of the northern aspect. Passive surveillance has been improved with the new proposal providing a safe and secure school environment and public domain for those attending or visiting the school grounds. Overall, the proposal provides for a significantly improved outcome for students and staff with regards to health and safety.

***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 school will provide upgraded, high-quality spaces that will deliver pleasant and engaging areas for students and staff for the purposes of educational, informal and community activities. The proposal includes additional large, expansive learning areas and informal outdoor areas that have considered the amenity of the adjacent development and wider neighbourhood.

The proposed buildings along the north eastern and eastern boundary sits adjacent to an existing carparking with adjacent properties zoned for high density residential.

Pedestrian access is maintained through Gilham Street and Les Shore Place, however vehicular access is via Les Shore Place which is not proposed for amendment under this application. It is noted that draft development consent Condition No. 26 requires the applicant to prepare a Deed of Agreement between the NSW Department of Education and The Hills Shire Council for the construction of indented kiss and drop bays adjacent to the Council Reserve on Gilham Street and a widened concrete footpath on the south western corner of Pennant Street and Les Shore Place. Nevertheless, the proposal provides for a high level of acoustic amenity for students, teachers and visitors.

The school seeks to provide appropriate indoor and outdoor learning and play spaces, which will receive sufficient solar access, natural ventilation, privacy, storage and service areas. Mechanical ventilation is suitably located on the roof spaces for an improved acoustic environment. Overall, the proposal provides for suitable amenity to students and staff, as well as the public.

***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:**

The school seeks consent for upgrade works which aim to deliver buildings with a high environmental performance, ease of adaption and maximising multi-use facilities. The

proposed materials provide structure within the outer footprint for longevity and flexibility internally for future adaptive use.

### **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:**

As previously noted, the proposed buildings have been designed to relate to the existing setting of the site within the education and residential landscape. The built form responds to the existing context and is consistent with the desired future character of the school. The design continues to positively contribute to the site and surrounding neighbourhood with the visual impact of the built form being sympathetic to the locality through positioning, materiality, and landscaping.

Overall, the proposal has satisfactorily demonstrated compliance with regards to the above design principles and will enable the use of the proposed facilities for the benefit of the community.

### **The Hills Local Environmental Plan 2019**

The proposed development is pursuant to the provisions outlined within the LEP.

The aims of the LEP include the following:

- *to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- *to guide the orderly and sustainable development of The Hills, balancing its economic, environmental and social needs,*
- *to provide strategic direction and urban and rural land use management for the benefit of the community,*
- *to provide for the development of communities that are healthy, connected and inclusive and that have services and facilities that meet their needs,*
- *to provide for well planned and liveable neighbourhoods 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,*
- *to preserve and protect the natural surroundings of The Hills and to identify environmentally significant land for the benefit of future generations,*
- *to contribute to the development of a prosperous local economy through the identification and management of land to promote employment opportunities, rural productivity and tourism.*

The proposal is consistent with the above aims as the proposal seeks to develop the site in an orderly manner that is compatible with the surrounding development and provides school facilities and services for the local community.

The site is located within the R2 Low Density Residential Zone. The proposal is a permissible form of development in the R2 zone under the Chapter 3 of SEPP (Transport and Infrastructure) 2021. A zoning map of the subject site is outlined in red below (refer Figure 2):

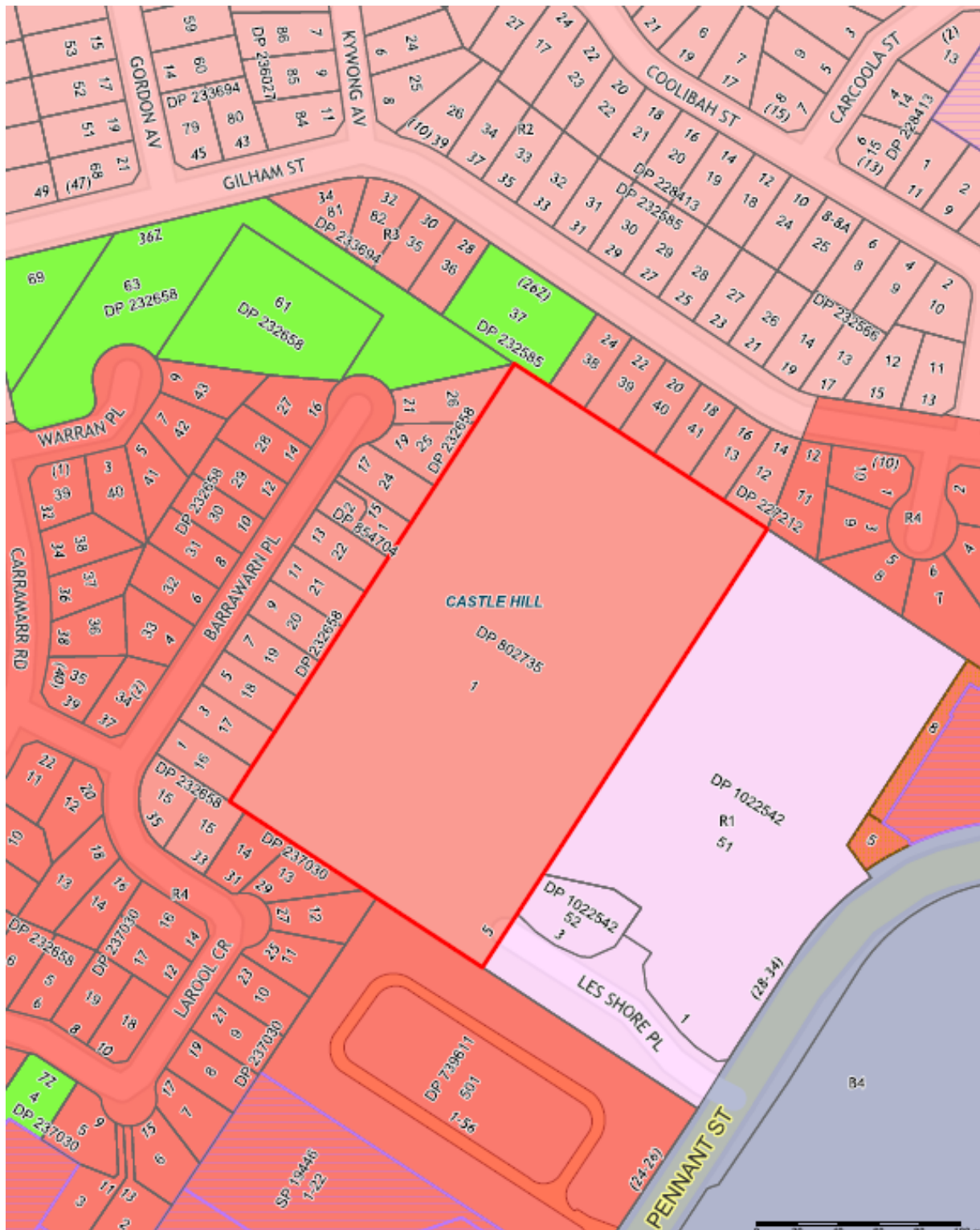


Figure 2. Extract of Zoning. Site outlined in red.



The R2 zone objectives include the following (pursuant to the Land Use Table in Clause 2.3):

- *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 proposal is considered to be consistent with these zone objectives.

The LEP also contains the following relevant controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in **Table 4** below.

**Table 4: Consideration of the LEP Controls**

Control	Requirement	Proposal	Comply
Height of buildings (CI 4.3(2))	10 metres	14.8 metres	No
Exceptions of Development Standards (CI 4.6)	Exceptions will be considered subject to appropriate assessment.	A written submission to vary Clause 4.3 height of buildings has been provided and addressed below.	Yes, refer to discussion below.
Urban Release Area (CI 6.3)	Development consent must not be granted for development on land in an urban release area unless the Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required.	Existing services are to remain. It is noted that the application was referred to Endeavour Energy who has no objection to the proposal subject to conditions (refer to Condition No. 4).	Yes

The proposal is considered to be generally consistent with the LEP with the exception of Clause 4.3(2) Height of Buildings. A Clause 4.6 request has been provided with the application for the exceedance of the maximum height standard and is discussed as follows.

#### Clause 4.6 Request – Building Height

The site is subject to a maximum building height of 10 metres as shown on the Height of Buildings map under Clause 4.3 of LEP 2019. The proposed development exceeds the building height standard by a maximum of 4.8 metres or 48% (refer to Attachment L).

The applicant has submitted a written Clause 4.6 Variation request to vary the building height standard (refer to Attachment L). 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,*
- (cc) clause 7.15.*

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 proposed classroom building is in the north-east portion of the site. The northern boundary is typified by single storey residential dwellings while the eastern boundary is shared with a large car park that services the Castle Towers Shopping Centre further east of this car park. Accordingly, the proposed building does not share any interface with the public domain.
- Single storey detached dwellings on the northern edge of the school site is planned for 3 storey terrace houses under the Castle Hill North Precinct. Furthermore, sites to the north-east are proposed for 4-8 storey high density residential. The existing car park to the east of the site is also planned for future 4 to 12 storey high density residential housing with a 4-5m pedestrian connection that acts as a buffer between the school and any new housing planned for the car park site.
- There are no privacy issues to existing dwellings to the north as there are no openings on the north elevation.



- Due to the orientation of the sun, the proposed development makes no difference to overshadowing currently experienced by existing dwellings to the north. However, it is noted that the proposal will result in minor overshadowing of a small portion of the existing car park to the east. Notwithstanding this, the impact is considered acceptable and is unlikely to prejudice the redevelopment of the car park. The new classroom building is setback 8 metres from the eastern boundary.
- In terms of visual impact, there is limited impact as the proposal is not located within a streetscape. The only impacts are to and from adjoining development. However, regarding the structure plan for the Castle Hill North Precinct, it is anticipated that the adjoining development will develop for medium and high-density residential development ranging from 3 to 12 storeys. Therefore, even with a slight height exceedance, it is compatible with the future desired character envisaged for the area.

Pursuant to Clause 4.6(2) of LEP 2019, 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 the LEP, 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 the LEP. The application is supported by a detailed submission addressing the provisions of Clause 4.6 of LEP 2019 (refer to Attachment L). The submission is considered with regard to the criteria of Clause 4.6(3) of the LEP, 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 the LEP 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 proposal has been designed to consider the low density residential context of the immediate locality.

The proposed roof form and building height are compatible with surrounding dwellings and the streetscape as part of additions to an existing school. The proposal will not result in any unacceptable overshadowing or privacy impacts on adjoining properties beyond a development which achieves compliance with the height standard. The development complies with the minimum overshadowing requirements under The Hills DCP 2012. Building H is

located at the north eastern corner of the site and Building E is located at the southern end of the site, both with an 8 metre setback to the south eastern boundary. Given the orientation of the buildings, setbacks and location at the south eastern portion of the site, the majority of overshadowing impacts would fall within the subject site with a portion of overshadowing occurring towards the existing adjoining car park.

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 height 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 building location has been determined due to site constraints on the land with regards to topography, existing services, existing trees and circulation through the school grounds. The sites topography falls from the north east to south west, with a fall of approximately 6 metres from the most northeast extent to the most southwestern extent of the new building. The falling topography of the site results in the extent of the height variation. The submission further states that the building height non-compliance is a better urban design and planning outcome as the siting of the proposed new building adequately responds to the significant environmental site constraints, the proposal will allow for reinstatement of recreational facilities for a larger play space area, the topography increases the extent of the height non compliance but also assists in diminishing the height and visual prominence of the new building in the streetscape.

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 10 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 the LEP.

#### Is the proposal in the public interest?

Under the provisions of Clause 4.6(4) of LEP 2019, 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 proposal is considered to be consistent with the objectives of the building height development standard, as follows:

- *To ensure the height of buildings is compatible with that of adjoining development and the overall streetscape,*

Comment:

Notwithstanding the building height non-compliance, the height and scale of the proposed development is compatible with the established built form of the adjoining development. The streetscape will not be impacted by the proposal with height of the building being adequately screened by landscaping and adjoining an existing car park anticipated for high density residential, the use of recessive colours and materials softening the built form and substantial setbacks providing adequate separation.

- *To minimise the impact of overshadowing, visual impact, and loss of privacy on adjoining properties and open space areas.*

Comment:

As discussed throughout this report, given the orientation of the buildings, setbacks and location of proposed buildings at the south eastern portion of the site, the majority of overshadowing impacts would fall within the subject site with a portion of overshadowing occurring towards the existing adjoining car park. The only residential dwellings that adjoin the proposed buildings are to the north, fronting Gilham Street. No windows are proposed along the northern elevation which reduces any potential overlooking and privacy impacts. The proposal is accompanied by a detailed landscape plan, which details extensive proposed landscaping, which in conjunction with existing established landscaping will reduce any overlooking and privacy impacts from the school. Overall, the proposal will not result in unacceptable amenity to adjoining properties and any areas of open space.

Further, the proposal is considered to be consistent with the objectives of the R2 Low Density Residential zone.

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

Comment:

The proposal does not impact on 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.*

Comment:

The proposal provides for additions and upgrades to an existing educational establishment that seeks to continue to meet the needs of the local community through improved learning environments for local students. The proposal is considered to provide facilities and services to a local public school that meet the day to day needs of residents.

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

Comment:

The proposal is considered to maintain the low-density residential character of the area. The proposed design provides adequate separation to adjoining properties as well as landscaping to soften the bulk and scale of the built form. Overall, the development will maintain the existing low-density residential character of the area.

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 2019, 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.

### **3.2 Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments**

There are no proposed instruments which have been the subject of public consultation under the Environmental Planning and Assessment Act 1979 that are relevant to the proposal.

### 3.3 Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

The Hills DCP 2012 does not apply to the proposal, and it is noted that no section of the DCP specifically applies to design associated with school developments. Notwithstanding, a merit assessment against the applicable controls is considered necessary to ensure a consistent character with the streetscape and wider locality. The proposed development has been assessed against the relevant development controls and objectives of the DCP as follows:

#### *The Hills Development Control Plan 2012*

- Part B Section 2 – Residential;
- Part C Section 1 – Parking;
- Part C Section 3 – Landscaping; and
- Part D Section 20 – Castle Hill North Precinct.

DEVELOPMENT CONTROL	THDCP REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
<i>Part B Section 2 – Residential</i>			
Building Setbacks	Side setback – 1.5 metres	Side setback (east) – 8 metres	Yes
	Rear setback	Rear setback to northern boundary – 8 metres	Yes
<i>Part C Section 1 – Parking</i>			
Parking	<u>Educational Establishments</u> 1 space per employee plus 1 space per 30 students enrolled for visitors and/or parent parking	<u>Existing</u>  Staff: 75 (75 spaces) Student capacity: 1,147 (39 spaces)  Required: 114 spaces  Existing car parking provision: 61 spaces plus 1 disabled  <u>Proposed</u>  Staff: 80 (80 spaces) Student capacity: 1,200 (40 spaces)  Required: 120 spaces	No, see below for discussion.

		Proposed car parking provision: 61 spaces plus 1 disabled – no change to existing	
<i>Part D Section 20 – Castle Hill North Precinct</i>			
Pedestrian Link	Pedestrian link to be provided as per Figure 14 and 15 in the DCP.	Pedestrian links provided adjoining the school site.	Yes

### Parking

The proposal has been assessed against The Hills DCP Part C Section – Parking as follows:

*THDCP 2012 parking rate:*

<b>Staff</b>	1 space per employee
<b>Visitors and/or parents</b>	1 space per 30 students enrolled

*Existing and proposed student and staff numbers:*

<b>Existing staff numbers</b>	<b>Proposed staff numbers</b>	<b>Increase</b>
75	80	5

<b>Existing student numbers</b>	<b>Proposed student numbers</b>	<b>Increase</b>
1,147	1,200	53

*Existing parking:*

<b>Existing parking</b>	<b>Minimum DCP carparking requirements</b>	<b>Shortfall</b>
61 spaces plus 1 disabled space	114 spaces	53 spaces

*Proposed parking:*

<b>Proposed parking</b>	<b>Minimum DCP carparking requirements</b>	<b>Shortfall</b>
61 spaces plus 1 disabled space	120 spaces	59 spaces

As indicated above, the proposal increases the maximum staff and student numbers and maintains the existing car parking provision. The supporting Traffic Management Report prepared by Cardno states that 80 staff are to be employed however the school has advised



that a maximum 75 staff are to be present on a typical day including permanent, temporary, casual and volunteers. The submitted Statement of Environmental Effects states:

*Based on the capacity of 1,200 students and an estimated 80 staff, the total on-site parking requirement based on the DCP rates would be 115 spaces. The proposed development seeks to retain 61 (plus 1 disabled) on-site staff car parking spaces at the front of the school alongside Les Shore Place, which is lower than the DCP requirement. Compared to the existing school, Cardno notes that the proposal will generate an additional demand for seven (7) car parking spaces because of additional staff expected at the school due to the proposal. In addition to the traffic counts, the AM and PM parking demand on surrounding roads have also been measured. Parking surveys were undertaken on Tuesday 25 October 2022 from 7am to 5pm to coincide with the traffic counts. The counts indicate a sufficient spare capacity in the road reserve to accommodate the additional overflow. Notwithstanding this, the STP seeks to change the current mode split of the school to reduce percentage of staff that currently travel to school by car and achieve a shift towards active transport modes. Subject to the successful implementation of the STP, there will be a reduction in parking demand otherwise generated by the increase in staff.*

The supporting Traffic Management Report prepared by Cardno also states the following justification to the shortfall of parking spaces:

*Whilst the application does not detail an increase in on-site car parking, it is considered appropriate in this instance as the existing provision of 61 car parking spaces plus disabled would only result in a difference of 7 additional overflow parking spaces to the surrounding streets. The surrounding streets such as Barrawarn Place has additional kerbside parking locations that could be utilised by staff.*

In addition, the supporting Traffic Management Report notes that the school is well serviced with the Castle Hill Transport Interchange within a 10 minute walk (700m) to the south. The school is also serviced by several bus services with 5 school buses during the morning peak period, 8 school buses during the afternoon peak and 9 public buses.

On-street parking is provided in the streets surrounding the school with a combination of unrestricted parking and “No Parking” spaces during school drop off and pick up hours which complements the school’s kiss and drop, and kiss and ride system where parents are able to remain in their vehicles and legally drop off or pick up their children near the school gates within a two-minute timeframe.

There is an existing kiss and drop system on Les Shore Place and an existing kiss and ride zone along Gilham Street, the northern side of Barrawarn Place, and the western side of Kywong Avenue. It is noted that Condition No. 26 requires the applicant to prepare a Deed of Agreement between the NSW Department of Education and The Hills Shire Council for the construction of indented kiss and drop bays adjacent to the Council Reserve on Gilham Street and a widened concrete footpath on the south western corner of Pennant Street and Les Shore Place.

Council’s Traffic Engineer has assessed the proposal and raises no objection subject to conditions of consent requiring the development to comply with the submitted School

Transport Plan that aims to encourage active and public transport and reduce private car reliance.

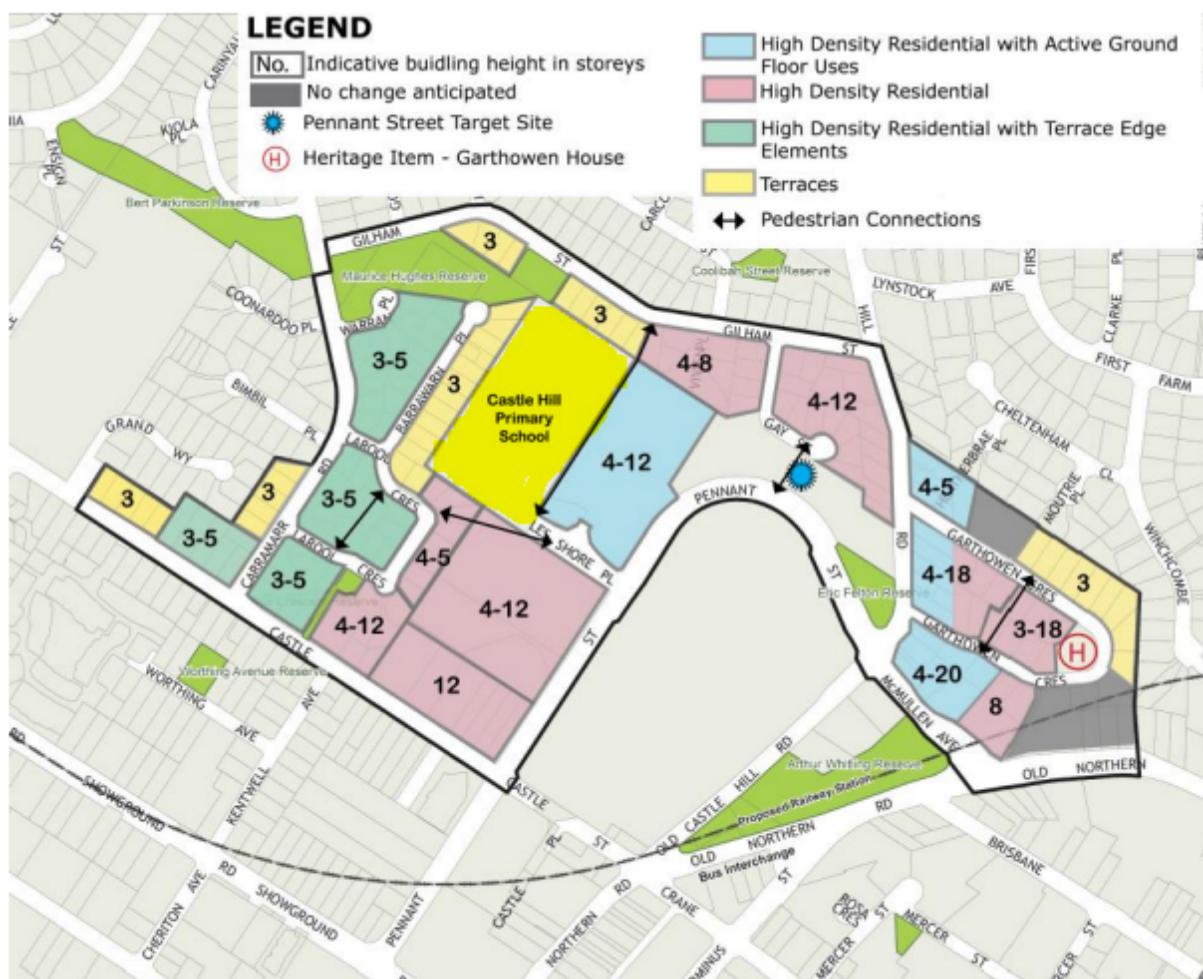
The school currently provides no off-street parking for parents and visitors. The existing 61 plus 1 disabled car parking spaces are to remain for the use of staff only.

Overall, the proposal is considered to be reasonable subject to a conditions of consent implementing a School Transport Plan to reduce kiss and drop parking demand, the construction of indented kiss and drop bays adjacent to the Council Reserve on Gilham Street and a widened concrete footpath on the south western corner of Pennant Street and Les Shore Place to alleviate pedestrian demand and safety concerns which will result in a substantially improved outcome for the school, whilst also improving the residential amenity and overall streetscape.

In view of the above, the existing carparking to remain is supportable in this instance.

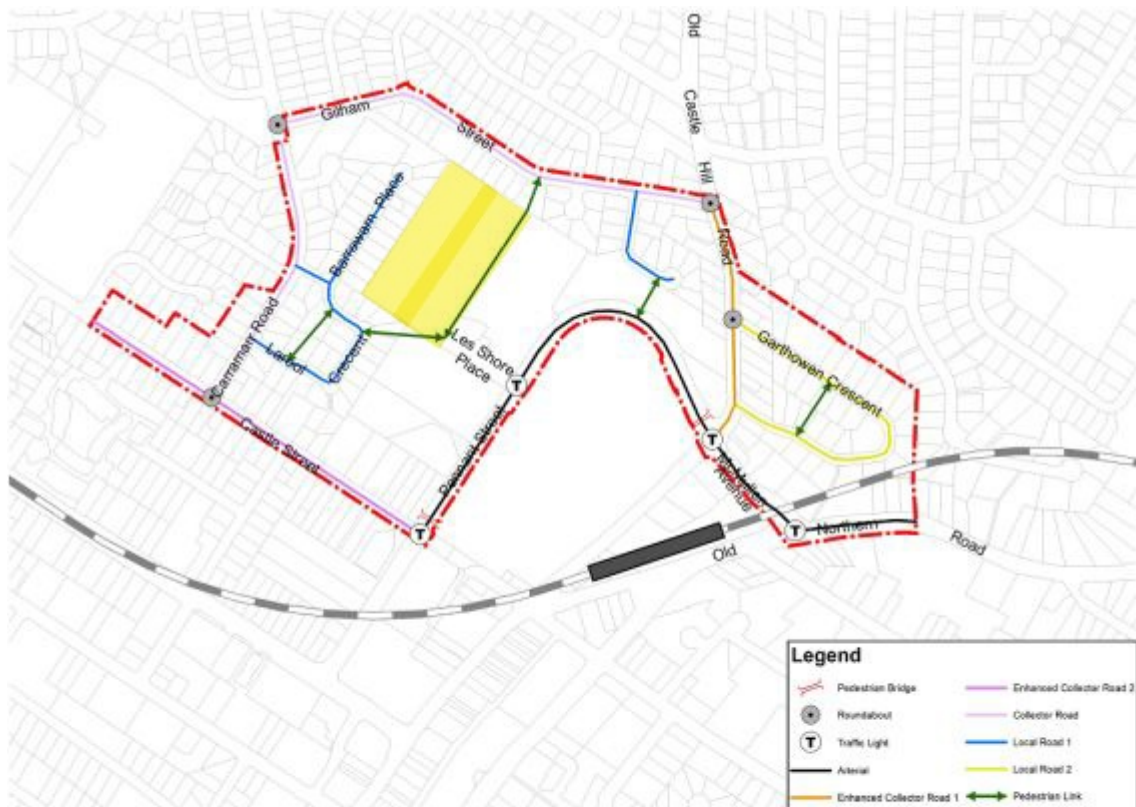
### Pedestrian Link

The Hills Development Control Plan Part D Section 20 – Castle Hill North Precinct envisages pedestrian connections adjoining the school site as follows:



**Figure 14 Castle Hill North Structure Plan**

*Figure 3. Extract of Castle Hill North DCP Structure Plan. Site highlighted in yellow.*



**Figure 15 Indicative Street Network and Hierarchy**

Figure 4. Extract of Castle Hill North DCP Indicative Street Network and Hierarchy. Site highlighted in yellow.

The objectives of Section 4 'General Controls' of the DCP states:

- To encourage residents to walk or cycle to shops, railway station, recreation areas, community and other facilities by providing for safe and direct pedestrian and cycle connections between key locations.*
- A functional and attractive new street network is provided that facilitates access, safety and convenience for all street and road users and minimises the negative impact of traffic.*
- Carriageways and verge widths are consistent with the identified street hierarchy and profiles to allow streets to perform their designated functions within the street network, enhance functionality and amenity for users and accommodate public utilities and drainage systems.*
- Improve the capacity and function of the road network to support higher density development.*

The DCP includes the above structure plan and indicative street network and hierarchy that indicates that the adjoining sites to the north-west and north-east are expected to comprise of 3 storey terraces and 4 to 12 storey high density residential developments, with a pedestrian link envisaged between Gilham Street and Les Shore Place. The proposed development provides an access way along the full length of the eastern boundary which allows for a future pedestrian connection between Gilham Street and Les Shore Place. The development of the school facilitates future access, safety and convenience for all street and road users within

Castle Hill North Precinct to support the future higher density development envisaged for the area.

The proposed development is consistent with the objectives and desired future character of The Hills Development Control Plan Part D Section 20 – Castle Hill North Precinct.

### **3.4 Section 4.15(1)(a)(iia) – Planning agreements under Section 7.4 of the EP&A Act**

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

### **3.5 Section 4.15(1)(a)(iv) - Provisions of Regulations**

Clause 92(1) of the Regulation contains matters that must be taken into consideration by a consent authority in determining a development application, comprising the following:

- If demolition of a building proposed - provisions of AS 2601;

These provisions have been considered and if subject to a recommendation for approval, would have been and addressed in the draft conditions (where necessary).

### **3.6 Section 4.15(1)(b) - Likely Impacts of Development**

The proposed development is not considered likely to result in any adverse impacts. The development will provide for permanent classroom and school facilities for students at Castle Hill Public School.

### **3.7 Section 4.15(1)(c) - Suitability of the site**

The proposal will provide for upgraded school facilities consistent with the intended outcomes for the area, responds to the site characteristics and is considered to be a suitable development for the proposed lot.

Accordingly, it is considered that the proposal is suitable for the site and will not adversely impact the environmental amenity of the locality.

### **3.8 Section 4.15(1)(d) - Public Submissions**

These submissions are considered in Section 4.3 of this report.

### **3.9 Section 4.15(1)(e) - Public interest**

The development provides upgraded school facilities for a local public school. The proposal has been designed to be generally in accordance with SEPP (Transport and Infrastructure) 2021 and is in the public interest.

## **4. REFERRALS AND SUBMISSIONS**

### **4.1 Agency Referrals and Concurrence**

The development application has been referred to Transport for NSW, Sydney Water, Endeavour Energy, NSW Police and RFS for comment/referral as required by the EP&A Act. There are no outstanding issues arising from these referral requirements subject to the imposition of recommended conditions if development consent was granted for the application.

### **4.2 Council Referrals**

The development application has been referred to the following sections of Council:

- Engineering
- Traffic
- Tree Management/Landscaping
- Resource Recovery
- Environmental Health
- Land and Spatial Information
- Developer Contributions
- Development Monitoring
- Ecology

All previous concerns raised have been resolved and conditions of development consent have been recommended. This is detailed under the Background heading of this report under Section 2.2.

### **4.3 Community Consultation**

The application was notified to adjoining properties from 17 January 2023 to 8 February 2023, with one (1) submission being received.

The proposal was notified in accordance with The Hills Development Control Plan 2012 and included the following:

- Notification letters sent to adjoining and adjacent properties (28 properties notified); and
- Notification on the Council's website.

The issues raised in these submissions are considered in **Table 5** below:

**Table 5: Community Submissions**

Issue	Council Comments
<p><b>Stormwater</b></p> <p>Submission raises concern regarding an existing stormwater collection swale to be retained with the earthworks plan indicating a cut between 1.5 to 2 metres deep to allow construction of the three storey building and whether this stormwater method is feasible.</p>	<p>Council's Development Engineer has reviewed the proposal and raises no objections to the proposed stormwater management arrangements.</p> <p>The proposed retaining wall and building are offset from the northern boundary by approximately 5 metres which provides adequate clearance to allow the construction of the retaining wall and temporary batter whilst maintaining the existing swale and trees along the boundary. The adjoining carpark to the east has an existing kerb and gutter which runs parallel to the boundary which prevents substantial stormwater runoff from entering the school property.</p>
<p><b>Landscaping</b></p> <p>Submission raises concern regarding screen planting along the northern boundary of the site behind properties at Gilham Street, and whether they are to be retained or replaced.</p> <p>Concern regarding screen planting in the north eastern corner along the eastern boundary of the school site.</p>	<p>Council's Tree and Landscape Officer has reviewed the proposal and has no objections subject to conditions of consent.</p> <p>The existing trees along the northern boundary to the rear of the Gilham Street properties are to be retained. Only two (2) trees are proposed to be removed at the north eastern corner of the site as they are within the development area of the proposed Building H. No screen planting is proposed at the north eastern corner along the eastern boundary of the school as a maintenance access road is proposed along the eastern boundary. The proposal has been amended to ensure the retention and protection of the existing trees and screen planting along the north western boundary of the existing car park adjoining the site to the east.</p>
<p><b>Access Road</b></p> <p>The access road on the east and north of the 3 storey classroom seems excessive for only emergency and maintenance access and impacts upon existing trees.</p>	<p>Council's Tree and Landscape Officer has reviewed the proposal and has no objections subject to conditions of consent.</p> <p>The maintenance access road to the east and north of proposed Building H has been amended with increased setbacks to the boundary to ensure the retention and protection of the existing trees and screen planting along the north western boundary of the existing car park adjoining the site to the east.</p>
<p><b>Contamination</b></p> <p>There is potential contamination from this site as it used to be an experimental farm with a pipeline running along the northern boundary.</p>	<p>A Stage 2 Detailed Site Investigation (DSI) was prepared for the site to consider the provisions of the State Environmental Planning Policy (Resilience and Hazards) 2021 to consider whether the land is contaminated, and if the land it is contaminated, it is satisfied that the land is suitable in its contaminated state for the purpose of which the development is proposed to be carried out.</p>



	Council's Environmental Health Team have reviewed the DSI and have raised no objections to the recommendations of the report, subject to conditions.
<b>Traffic and Parking</b>  Existing pick up and drop off occurring in Gilham Street is congested and will get worse with increased student capacity especially with temporary construction access from Gilham Street.	The application has been referred to Council's Traffic Section and TfNSW who raise no objection subject to conditions of consent (Refer to Draft Development Consent - Attachment A). The recommended conditions of consent include the requirement of the applicant to prepare a Deed of Agreement between the NSW Department of Education and The Hills Shire Council for the construction of indented kiss and drop bays adjacent to the Council Reserve on Gilham Street which will alleviate the traffic congestion on Gilham Street.

## 5. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application can be supported.

The Development Application has been assessed against the relevant heads of consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, State Environmental Planning Policy (Planning Systems) 2021, State Environmental Planning Policy (Resilience and Hazards) 2021, The Hills Local Environmental Plan 2019 and The Hills Development Control Plan 2012 and is considered satisfactory.

It is considered that the applicant's Clause 4.6 written request to vary Clause 4.3(2) development standard of The Hills LEP 2019 can be supported as it adequately justifies the contravention of the development standards having regard to the requirements of Clause 4.6(3). It is considered that the variation can be supported as compliance with the standard is unreasonable and unnecessary in this instance and the proposal results in a better environmental planning outcome as outlined in this report. Furthermore, having regard to Clause 4.6(4), the development is consistent with the objectives of the standards and the objectives for development within the zone and is therefore in the public interest.

Approval is recommended subject to conditions, refer **Attachment A**.

The Applicant's amendments for approval of the conditions as required under Clause 4.33 is provided under Attachment B.

## 6. RECOMMENDATION

That the Development Application No. 1070/2023/JP for a demolition of existing structures and construction of a three storey building for Castle Hill Public School – 5 Les Shore Place, Castle Hill be APPROVED pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 subject to the reasons listed below and subject to the draft conditions of consent approved by the Applicant attached to this report at Attachment A.

It is recommended that the applicant's Clause 4.6 written request to vary Clause 4.3(2) development standard of The Hills LEP 2019 is supported as it adequately justifies the contravention of the development standard having regard to the requirements of Clause 4.6(3). It is considered that the variation can be supported as technical compliance with the standard is unreasonable or unnecessary in this instance and the proposal results in a better environmental planning outcome as outlined in this report. Further, having regard to Clause 4.6(4), the development is consistent with the objectives of the standard and the objectives for development within the zone and is therefore in the public interest.

- The Clause 4.6 Variation request is considered to be well-founded, and the proposed variation results in a development that is consistent with the relevant objectives, and compliance with the standard is unreasonable and unnecessary in this instance, and the proposal results in a better planning outcome as outlined in this report,
- The site is considered suitable for the development,
- The proposal adequately satisfies the relevant state and local planning provisions,
- The proposal will have no unacceptable impacts on the built or natural environments, and
- The proposal is in the public interest.

The following attachments are provided:

- Attachment A –Draft Conditions of Consent (approved by the Applicant)
- Attachment B – Applicant's Approval under Clause 4.33 of the EP&A Act 1979
- Attachment C – Locality Plan
- Attachment D – Aerial Map
- Attachment E – Zoning Map
- Attachment F – Height Map
- Attachment G – Site Plan
- Attachment H – Floor Plans
- Attachment I – Elevations
- Attachment J – Landscape Plans
- Attachment K – Shadow Diagrams
- Attachment L – Clause 4.6 Request

## ATTACHMENT A – DRAFT CONDITIONS OF CONSENT (APPROVED BY THE APPLICANT)

### 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: - Landscape plans amended in red for maintenance access to be setback 3m from eastern boundary.

#### **REFERENCED PLANS AND DOCUMENTS**

DRAWING NO	DESCRIPTION	REVISION	DATE
CHPS-WB-AR-DA-11-00-01	Site Plan & Survey Plan	1	19/12/2022
CHPS-WB-AR-DA-11-00-03	Site Plan & Demolition Plan	1	19/12/2022
CHPS-WB-AR-DA-11-00-04	Site Plan & Proposed Planning Pathway	1	19/12/2022
CHPS-WB-AR-DA-12-0G-00	Overall Plans Ground – New Hall, Lower Ground – New Teaching Block	2	03/07/2023
CHPS-WB-AR-DA-12-10-01	Overall Plans Level 1 – New Hall, Ground – New Teaching Block	1	19/12/2022
CHPS-WB-AR-DA-12-10-02	Overall Plans Level 1 – New Teaching Block	1	19/12/2022
CHPS-WB-AR-DA-12-20-00	Overall Plans Level 2 – New Teaching Block	1	19/12/2022
CHPS-WB-AR-DA-12-RF-00	Overall Site Roof – New Teaching Block	1	19/12/2022
CHPS-WB-AR-DA-13-00-01	Overall Proposed Elevations New Teaching Block	1	19/12/2022
CHPS-WB-AR-DA-13-00-02	Overall Proposed Elevations New Hall	1	19/12/2022
CHPS-WB-AR-DA-13-00-03	Overall Proposed Sections Overall	1	19/12/2022
CHPS-UR-LA-00-00-00-000	Landscape Cover Sheet	C	03/07/2023
CHPS-UR-LA-00-00-00-001	Landscape Legend and Plant Schedule	B	16/12/2022
CHPS-UR-LA-00-00-00-201	General Arrangement Plan	C	03/07/2023
CHPS-UR-LA-00-00-00-202	General Arrangement Plan	C	03/07/2023
CHPS-UR-LA-00-00-00-501	Planting Plan	B	16/12/2022
CHPS-UR-LA-00-00-00-502	Planting Plan	B	16/12/2022

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

#### **2. External Finishes**

External finishes and colours shall be generally in accordance with the details submitted with the development application, or nearest Colourbond standard colour, and as approved with this consent.

### **3. Compliance with Transport for NSW Requirements**

Compliance with the requirements of Transport for NSW as outlined in their letter dated 11 October 2023 uploaded on the NSW Planning Portal and attached to this consent (Attachment A). In particular, the proposed footpath widening works at the intersection of Les Shore Place and Pennant Street are to comply with Transport for NSW requirements as the works are adjacent to the existing traffic signals. Refer to Attachment A unless otherwise agreed to be TfNSW in correspondence dated 25 October 2023 which states:

#### ***Condition 1:***

Any proposed works on Pennant Street and/or modification to the Traffic Control Signal (TCS) plan at the signalised intersection of Pennant Street/Les Shore Place 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 TCS design and civil design plans shall be submitted to TfNSW for consideration and approval prior to commencement of road works. Please send all documentation to [development.sydney@transport.nsw.gov.au](mailto:development.sydney@transport.nsw.gov.au)

All works should be completed prior to the occupation of the site.

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

The fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of road works and as required by WAD.

### **4. Compliance with Endeavour Energy Requirements**

Compliance with the requirements of Endeavour Energy as outlined in their letter dated 17 January 2023 uploaded on the NSW Planning Portal and attached to this consent (Attachment B).

### **5. Compliance with NSW Police Requirements**

Compliance with the requirements of the NSW Police dated 3 May 2023 as follows:

#### ***Surveillance***

- a. Vegetation, especially shrubs and shade trees are to be well maintained with a regular maintenance schedule.
- b. A CCTV system is required to monitor the site specifically after school hours.

#### ***Territorial Reinforcement***

- a. Signage, gates and security locks are required to define public and private space. Entry gates are to be closed and secured when the school is closed.
- b. All public access points are to be well marked.
- c. Signage is required indicating school amenities i.e. sporting fields are closed to the public.
- d. A maintenance schedule is to be implemented to remove any graffiti or repair damaged property.

#### ***Access Control***

- a. Warning signs should be strategically posted around the building to warn intruders of what security treatments have been implemented to reduce opportunities for crime (e.g., "Warning trespassers will be prosecuted" or "Warning, these premises are under electronic surveillance").

- b. The premises should have motion activated alerts so that the presence on site of any person can be monitored out of hours.
- c. Park smarter signage is required to educate staff and visitors to not leave valuable items in their cars and ensure vehicles are secured.

## **6. Tree Removal**

Approval is granted for the removal of thirteen (13) trees numbered 68-69, 94, 127, 129-136 and 141 as detailed in the Arboricultural Impact Assessment prepared by Arboreport dated 19/12/22.

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.

## **7. Planting Requirements**

All trees planted as part of the approved landscape plan pursuant to Condition 1 of this consent 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 and ornamental grasses are to be minimum 150mm pot sizes.

## **8. Provision of Parking Spaces**

The development is required to maintain 61 off-street car parking spaces.

## **9. Separate application for signs**

A separate application is to be submitted to, and approved by, Council prior to the erection of any advertisements or advertising structures.

## **10. Protection of Public Infrastructure**

Adequate protection must be provided prior to work commencing and maintained during building operations so that no damage is caused to public infrastructure as a result of the works. Public infrastructure includes the road pavement, kerb and gutter, concrete footpaths, drainage structures, utilities and landscaping fronting the site. The certifier is responsible for inspecting the public infrastructure for compliance with this condition. Any damage must be made good in accordance with the requirements of Council and to the satisfaction of Council.

## **11. Vehicular Access and Parking**

The design formation, surfacing and drainage of all driveways, circulation roadways and extended emergency access and maintenance ramps are and construction must be 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 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 must be separated from landscaped areas by a low level concrete kerb or wall.

- All driveways must be concrete or bitumen. The design must consider the largest design service vehicle expected to enter the site.
- All driveways 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 the proposed driveway must comply with the above documents, Australian Standards and Council's Driveway Specifications.

### **b) Site Stormwater Drainage – Downstream Constraints**

The site is currently split into two sub-catchments, and both draining towards areas affected by flooding. The southern catchment that drains into a 375mm diameter pipe, and the existing flood risks to the residential properties downstream must be considered throughout the design, construction and occupation phase of the subject development and future developments.

A detailed stormwater construction management plan must be prepared under maintained during all the time.

The southern sub-catchment, which is currently controlled by an existing above ground OSD basins; one of which is proposed to be replaced by a structural OSD tank under the cola area.

The entire development area must be graded, collected by pits and pipes, and to be controlled within site via the OSD tank. No additional water shall be permitted to bypass the OSD systems.

All additional stormwater runoff generated within the site must be directed to respective existing and proposed Onsite Detention Stormwater systems (OSD) within the site.

### **c) Stormwater Drainage – External Stormwater**

Any external stormwater runoff entering the site must be collected and conveyed to the required junction pit via appropriately designed swales or dish drains, and/or pits and pipes.

## **13. Road Opening Permit**

Should the development necessitate the installation or upgrading of utility services or any other works on Council land beyond the immediate road frontage of the development site and these works are not covered by a Construction Certificate issued by Council under this consent then a separate road opening permit must be applied for and the works inspected by Council's Maintenance Services team.

The contractor is responsible for instructing sub-contractors or service authority providers of this requirement. Contact Council's Construction Engineer if it is unclear whether a separate road opening permit is required.



#### **14. Reflective Qualities**

Construction materials are to exhibit low reflective qualities and are to blend in with the surrounding environment.

#### **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 as referenced by Section 69 of the Environmental Planning and Assessment Regulation 2021.

#### **16. Acoustic Requirements**

The recommendations of the Noise and Vibration Impact Assessment prepared by Norman, Disney and Young Pty Ltd, referenced as Revision 4.0 – DA Report Updated, dated 14 December 2022 are to be implemented as part of this approval.

#### **17. 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 Assessment prepared by Arboreport dated 19/12/22.

#### **18. Control of early morning noise from trucks**

Trucks associated with the construction of the site that will be waiting to be loaded must not be brought to the site prior to 7am.

#### **19. Imported 'Waste Derived' Fill Material**

The only waste derived fill material that may be received at the development site is:

- virgin excavated natural material (within the meaning of the Protection of the Environment Operations Act 1997); or
- any other waste-derived material the subject of a resource recovery exemption under clause 93 of the Protection of the Environment Operations (Waste) Regulation 2014 that is permitted to be used as fill material.

Any waste-derived material the subject of a resource recovery exemption received at the development site must be accompanied by documentation as to the material's compliance with the exemption conditions and must be provided to the Principal Certifier on request.

#### **20. 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](http://www.wastelocate.epa.nsw.gov.au).

#### **21. 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 for the standard 8.8m long Medium Rigid Vehicle.

## **22. 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.

## **23. 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](http://www.wastelocate.epa.nsw.gov.au).

## **24. Disposal of Surplus Excavated Material**

The disposal of surplus excavated material, other than to a licenced waste facility, is not permitted without the previous written approval of Council prior to works commencing on site. Any unauthorized disposal of waste, which includes excavated material, is a breach of the Protection of the Environment Operations Act 1997 and subject to substantial penalties. 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.

## **25. Use of School Hall**

The proposed school hall is not to be used as an “Entertainment venue”, as defined under the Environmental Planning & Assessment Regulation 2021, except with the prior consent of Council.

## **26. Deed of Agreement**

The Applicant shall prepare a Deed of Agreement between the NSW Department of Education and The Hills Shire Council, which shall be agreed to and ratified by both parties within six months following the issuing of a Crown Certificate. The Deed shall specify:

- a) The agreed works required to construct indented kiss and drop bays adjacent to the Council Reserve on Gilham Street, Castle Hill including any possible public utility adjustments. These works shall be in accordance with all relevant Australian Standards, Transport for NSW standards, Council standards and public utility requirements.;
- b) the agreed works required to construct a widened concrete footpath between the edge of the existing footpath and the existing noise wall on the south-western corner of Pennant Street and Les Shore Place, Castle Hill. These works may include possible

public utility adjustments. The works shall be in accordance with all relevant Australian Standards, Transport for NSW standards, Council standards and public utility requirements.

- c) The Applicant shall be responsible for all construction costs associated with the works as per the deed of agreement, listed in Items a) and b).

## **27. Negotiations with Adjacent Lot 51 DP 1022542**

The Department of Education should continue negotiations with the owners of the adjacent Lot 51 DP 1022542 to allow for the parents of students to jointly use the at-grade parking area on Lot 51/DP1022542 for school drop off and pick up of students.

## **PRIOR TO WORK COMMENCING ON-SITE**

### **28. Integrated Stormwater Management**

#### **(a) Onsite Stormwater Detention (OSD) – Hawkesbury Parramatta River Catchment Area**

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

The OSD layout shown on the Siteworks and Stormwater Management Plan prepared by TTW Engineers Drawings CHPS-TTW-CV-40 Revision 4 dated 14/07/2023 and the Drawings CHPS-TTW-CV-54 Revision 1 dated 14/07/2023 submitted with development application are for development application purposes only and are not to be used for construction. The detailed design must ensure design compliance of the OSD Handbook, and the following necessary changes:

- i. The FFL 119.40 of the underground OSD tank shown on the surface of 'OSD Plan' on the drawing CV-54 must be amended to read RL 122.5 reflective to the sections 1 and 2 of the same drawing. The RL 119.4 refers to the bottom of the OSD tank.
- ii. The proposed 675mm diameter outlet pipe from the OSD tank is larger than the required size to be twice the area of the orifice size. This upsized pipes on upstream side of pits do not comply with hydraulic compliance when the downstream pipe, where the ultimate connection proposed is smaller equivalent to 300mm diameter.
- iii. Adequate access must be provided to the OSD tank in accordance with the requirements of section 4.2.8 of the OSD Handbook. Any grate accesses must be located clear of high trafficable (pedestrian) areas.
- iv. The drainage pits must be redesigned (enlarged) to minimise overland flow due to surcharge from the pits causing nuisance during storm events to the users.
- v. The detailed design for construction must incorporate adequate cross-sections extended outside the tank on both directions demonstrating the integration with the adjoining area on both sides (building and landscape).
- vi. All grated lids for accesses should be lockable for the public safety.
- vii. Install appropriate adequate warning signs on or near the OSD tank to alert the people of the risks associated with the OSD tank, being a confined space.
- viii. The overflow from rainwater tank chamber that forms part of the OSD tank must be directed into the OSD tank.
- ix. Detailed drawings must illustrate the locations of roof downpipes, surface collection and connection to the OSD tank.
- x. All the drainage pits collecting surface runoff including driveway (upper part of pit 14) must be designed to collect 1 in 100year stormwater runoff. A grated drain across the driveway at this location shall be incorporated.
- xi. Minor realignment of the drainage network between the pits 19 and 21 shall be incorporated to ensure the protected trees in this vicinity. Alternatively, appropriate

construction strategy such as under boring must be considered in the vicinity tree routes.

- xii. Drainage collected from pit 18 must be directed to the pit 13 (instead of pit 15) to ensure the hydraulic losses are minimised due to 90° turns.
- xiii. Adequate drainage measures including pits and pipes network and suitably designed localised overland flow path must be provided throughout the site including landscape area to optimize the collections management of overland flows safely for the occupants from flood risks.

## **(b) Water Quality Treatment Measures**

Water Quality Treatment design elements, consisting of filter baskets in all pits are to be provided generally in accordance with the plans and information submitted with the application.

The Detailed Sheet 3 Drawings CHPS-TTW-CV-52 Revision 2 dated 14/07/2023 prepared by TTW Engineers submitted is for development application purposes only and is not to be used for construction.

Detailed plans are to be prepared that are 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. The following must be included with the documentation approved as part of any Crown 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.
- Operation and maintenance manuals for the OSD, rainwater tanks and Water Quality Treatment design elements are to be provided to Council.
- A maintenance schedule.

## **29. Security Bond – Road Pavement and Public Asset Protection**

In accordance with Section 4.17(6) of the Environmental Planning and Assessment Act 1979, a security bond of \$101,520.00 is required to be submitted to Council to guarantee the protection of the road pavement and other public assets in the vicinity of the site during construction works. The above amount is calculated at the per square metre rate set by Council's Schedule of Fees and Charges, with the area calculated based on the road frontage of the subject site plus an additional 50m on either side (120m) multiplied by the width of the road.

The bond must be lodged with Council prior to works commencing on site.

The bond is refundable upon written application to Council and is subject to all work being restored to Council's satisfaction. Should the cost of restoring any damage exceed the value of the bond, Council will undertake the works and issue an invoice for the recovery of these costs.

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

The detailed design must be accompanied by an Erosion and Sediment Control Plan (ESCP) and a 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, otherwise an ESCP is required.

An ESCP must include the following standard measures along with notes relating to stabilisation and maintenance:

- Sediment fencing.
- Barrier fencing and no-go zones.
- Stabilised access.
- Waste receptacles.
- Stockpile site/s.

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. Acoustic Assessment of Selected Mechanical Plant**

A suitably qualified Acoustic Consultant shall review the construction plans of the development, and conduct an acoustic assessment of the cumulative noise impact of all of the mechanical plant operating at the site.

### **32. 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 Crown Certifier upon request prior to the receipt of Crown Certificate.

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

### **33. Tree Protection Fencing**

Prior to any works commencing on site (including demolition) Tree Protection Fencing must be in place around trees or groups of trees nominated for retention. The location of fencing shall be as per the Preliminary Tree Protection Plans prepared by Arboreport dated 08/12/22.

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.

The location of tree protection fencing can only be altered by the Project Arborist. The temporary relocation or removal of tree protection fencing to undertake works within the TPZs of trees to be retained is strictly to be undertaken under supervision of the Project Arborist.

#### **34. 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.

#### **35. 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.

#### **36. Trenching within Tree Protection Zone**

Any trenching or excavations for the installation of retaining walls, OSD, drainage, sewerage, irrigation or any other services shall not occur within the Tree Protection Zone of trees identified for retention 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 Crown Certifier at the completion of any trenching works and prior to occupation.

#### **37. 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.

#### **38. 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.

A plan that includes full (detour) or partial (temporary traffic signals) width road closure requires separate specific approval from Council. Sufficient time should be allowed for this to occur.

#### **39. 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.



#### **40. Stabilised Access Point**

A stabilised all weather access point is to be provided prior to commencement of earthworks, 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).

#### **41. Details and Signage - Principal Contractor and Principal Certifier**

##### **Details**

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

Before work commences, details of the Crown Certifier, in accordance with Section 57 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, is to be lodged on the NSW Planning portal.

##### **Signage**

A sign is to be erected in accordance with Section 70 of the Environmental Planning and Assessment Regulation 2021. The sign is to be erected in a prominent position on the site before the commencement of the work, and show –

- a) the name, address and telephone number of the Crown Certifier,
- b) the name and a telephone number on which the principal contractor/person responsible for the work may be contacted outside working hours.

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

#### **42. Notification of Asbestos Removal**

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

#### **43. 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.

#### **44. Erosion & Sediment Control Plan Kept on Site**

A copy of the Erosion and Sediment Control Plan must be kept on site at all times during construction and available to Council on request.

#### **45. 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.

#### **46. Waste Management Details Required**

Prior to the commencement of works, the location of waste disposal and recycling for all construction and/ or demolition waste materials (bricks, concrete, timber and so on) must be submitted to and approved by the Crown Certifying Authority. Alternatively, details of an appropriately licensed skip bin hire company or site clean company can be provided where the company is engaged to undertake all works during construction of the development (collection, transportation and disposal).

#### **47. Protection of Tree Canopy and Ground Protection within TPZ**

Care shall be taken when operating excavation machineries, cranes and similar equipment near trees to avoid damage to tree canopies (foliage and branches). Under no circumstances shall branches be torn-off by construction equipment. Where there is potential conflict between tree canopy and construction activities, the advice of a Project Arborist must be sought.

In the event of any tree becoming damaged for any reason during the construction period a Project Arborist shall be engaged to inspect and provide advice on any remedial action to minimise any adverse impact. Such remedial action shall be implemented as soon as practicable and certified by the Project Arborist.

The removal of a small portion of the crown (foliage and branches) is generally tolerable provided that the extent of pruning required is within 10% of the total foliage volume of the tree and the removal of branches does not create large wounds or disfigure the natural form and habit of the tree. All pruning cuts must be undertaken in accordance with the Australian Standard of Pruning of Amenity Tree (AS 4373-2007).

If any construction access or works is required within the TPZ of any tree (s) identified for retention ground protection measures shall be required.

Ground protection shall include temporary access for machinery, vehicular and foot traffic within the TPZ of trees on the site and/or on adjoining Council site (s).

The measures may include a permeable membrane such as geo-textile fabric beneath a layer of mulch or crushed rock below rumble boards as per Clause 4.5.3 Ground protection AS4970-2009 Protection of trees on development sites.

#### **48. Construction Management Plan (CMP)**

Engage a suitably qualified Environmental Consultant to prepare a detailed Construction Management Plan. The CMP shall include but not be limited to details of;

- The management of noise from the construction site including details of the depth of rock and method of rock breaking to be used;
- The management of dust from the construction site;
- A detailed program / analysis of the time line of works required to be carried out as part of the development;
- Safety – specifically around dust and noise and all mitigation measures which will be implemented to minimise the impacts on sensitive receivers such as nearby residents and the childcare centre at approximately 105m away from the proposed construction site;

- Details of the specific person for noise/ safety and dust complaints.

## **DURING CONSTRUCTION**

### **49. Standard of Works**

All work must be carried out in accordance with Council's Works Specification Subdivisions/ Developments and must include any necessary works required to make the construction effective. All works, including public utility relocation, must incur no cost to Council.

### **50. 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.

### **51. 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 Crown 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.

### **52. Roof Water Drainage**

Gutter and downpipe and/or rainwater tank overflow, to be provided and connected to an approved lawful discharge point (ie. kerb, inter-allotment drainage easement or OSD) upon installation of roof coverings.

### **53. Stockpiles**

Stockpiles of topsoil, sand, aggregate or other material capable of being moved by water shall be stored clear of any drainage line, easement, natural watercourse, footpath, kerb or roadside.

### **54. Asbestos Removal**

Any 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 Principal 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](http://www.wastelocate.epa.nsw.gov.au).

### **55. 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.

#### **56. 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.

#### **57. Construction and Fit-out of Food Premises**

To ensure that adequate provision is made for the cleanliness and maintenance of all food preparation areas, all work involving construction or fitting out of the premises shall comply with the requirements of *Australian Standard AS 4674-2004 – Design, construction and fit-out of food premises* and the provisions of the Food Standards Code (Australia). This includes, but is not limited to:

- The intersection of floors with walls and exposed plinths in food preparation, storage and serving areas are to be coved.
- All walls are to be solid construction. Solid construction is defined as brick, concrete blocks, autoclaved aerated concrete or preformed panels that are filled with suitable material.
- Pipes and conduits adjacent to walls are to be set a minimum of 25mm off wall face with brackets. Pipes and conduits entering floors, walls or ceilings are to be fitted with a flange and all gaps fully sealed.
- Hand wash basins:
  - Must be provided, not obstructed and accessible at bench height and no further than 5 metres from any place where open food is handled or prepared; and
  - Must be fitted with a tap that operates hands free with a permanent supply of warm running potable water delivered through a single outlet.

Note: Copies of AS 4674-2004 may be obtained from [www.saiglobal.com](http://www.saiglobal.com) by visiting the website: [www.saiglobal.com](http://www.saiglobal.com) and copies of the Food Safety Standards Code (Australia) may be obtained from Food Standards Australia New Zealand by visiting the following website [www.foodstandards.gov.au](http://www.foodstandards.gov.au).

#### **58. Rock Breaking Noise**

Upon receipt of a justified complaint in relation to noise pollution emanating from rock breaking as part of the excavation and construction processes, rock breaking will be restricted to between the hours of 9am to 12pm and 2pm to 5pm Monday to Saturday.

#### **59. Construction Noise**

The emission of noise from the construction of the development shall comply with the *Interim Construction Noise Guideline published by the Department of Environment and Climate Change (July 2009)*.

#### **60. 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.

## PRIOR TO THE FINAL INSPECTION/ISSUE OF CROWN CERTIFICATE

### **61. Marked Pedestrian Crossing**

Prior to occupation the Applicant shall submit details of implementation and management of the marked pedestrian crossing located within the school grounds to the west of Les Shore Place, including the potential use of a school crossing supervisor within the school property, to Transport for NSW for endorsement. If traffic controllers are to be employed, such as a school crossing supervisor or a crossing Marshall for students, a Traffic Guidance Scheme (TGS) formally known as a Traffic Control Plan (TCP) shall be prepared and implemented by a SafeWork NSW accredited traffic control specialist prior to the crossing being used.

### **62. School Travel Plan**

The School Travel Plan (STP) including the Travel Access Guide (TAG) shall be prepared and implemented prior to occupation in accordance with the Transport for NSW submission dated 8 February 2023 as the following:

**Mode shares:** Private car usage for staff should be decreased further to accommodate the upgrades. Car-pooling rates for staff should be increased for the shorter term. These should continue to be monitored over time in order to reduce the reliance on single occupant vehicle to the site. Car-pooling should also be encouraged in the Travel Access Guide (TAG) listed below.

**Pedestrian Management:** The Applicant shall develop and implement a plan of management to ensure that students walk to and from the school safely. This may involve approaching Transport for NSW to fund a school crossing supervisor particularly to ensure that students cross safely at the intersection of Pennant Street and Les Shore Place, alternatively the school should arrange their own crossing Marshall to supervise the students and ensure that they are crossing safely.

**Parking Management:** A priority parking management strategy should be put in place (as part of the Action Table) for staff for all car parking spaces, prioritising those who car pool/car share.

**Action Table:** Each part of the Action Table of the STP should be managed overall by a Travel Plan Coordinator/Steering Committee as soon as possible for the lifecycle of the development. The Action Table should:

- Identify the party or parties responsible for delivery and implementation of each element of the updated STP throughout various stages of the development lifecycle, including for its ongoing implementation, monitoring and review, for a period of at least 5 years post-OC;
- Be updated both on an annual basis, and when future transport services are upgraded;
- Include your current communication strategies and initiatives; and
- Include the tasks for monitoring and review of the STP.

**Travel Access Guide (TAG):** The TAG shall be prepared specifically for the Castle Hill Public School as part of the School Travel Plan and included as an Appendix. The TAG should include the following:

- Provide information about walking and public transport initiatives to encourage the use of sustainable transport journeys by staff and students (that are currently safe for staff and students to use), and have the TAG updated once safer pedestrian/cycling upgrades are done;

- Provide promotion of end of trip (EoT) facilities, including any new cycling infrastructure available, and update number and location of bicycle parking, showers and lockers (once future pedestrian/cycling infrastructure is in place);
- Provide information on car share, car-pooling and priority parking for people that car pool or car-share;
- The TAG should include information about public transport connectivity, end of trip facilities, and local pedestrian and cycling connections;
- Once future upgrades are developed, the TAG will need to be updated with these.

**Bicycle Parking and End of Trip (EoT):** The EoT associated with the bicycle parking, scooter and skateboard parking shall be monitored over time to ensure a good supply is provided with any future demand.

### **63. Section 73 Certificate must be submitted to the Crown Certifier prior to Occupation**

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](http://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 Crown Certifier before occupation of the development.**

### **64. Landscaping Prior to the Final Inspection**

The landscaping of the site shall be carried out in accordance with the relevant "Planting Requirements" Condition of the subject Development Consent prior to the final inspection. The Landscaping shall be either certified to be in accordance with the approved plans by an Accredited Landscape Architect or be to the satisfaction of Council's Manager Environment and Health. All landscape maintenance is to be in accordance with the Department of Education's maintenance requirements.

### **65. Completion of Engineering Works**

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

### **66. Property Condition Report – Public Assets**

Prior to the final inspection, an updated property condition report must be prepared and submitted to Council. The updated report must identify any damage to public assets caused by construction activities approved under this consent and the means of rectification for the approval of Council.

### **67. Stormwater Management Certification**

The stormwater management system must be completed to the satisfaction of the Principal Certifier prior to the issuing of a Crown 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.

#### **68. Food Premises Final Inspection**

Prior to the issue of the Crown Certificate, the food premises shall be inspected by an Authorised Officer of The Hills Shire Council under the Food Act 2003, to determine compliance with the Food Act 2003, Food Safety Standards and Australian Standard 4674:2004: Design Construction and Fit-out of Food Premises.

#### **69. Clearance Certificate**

On completion of the asbestos removal works a Clearance Certificate in accordance with Clause 474 of the Work Health and Safety Regulation 2017 shall be provided to the Principal Certifier.

### **THE USE OF THE SITE**

#### **70. Road Reserve Safety**

All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works, with no obstructions caused to the said footways and roadways. Construction materials and plant must not be stored in the road reserve without approval of Council. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site.

Where public infrastructure is damaged, repair works must be carried out as directed by Council officers at the full cost of the Developer. Where pedestrian circulation is diverted onto the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742.3- 2009 "Traffic control for works on roads". If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work. If traffic controllers are to be employed, a Traffic Guidance Scheme (TGS) formally known as a Traffic Control Plan (TCP) shall be prepared and implemented by a SafeWork NSW accredited traffic control specialist prior to the crossing being used.

#### **71. 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*.

#### **72. Offensive Noise - Acoustic Report**

The use of machinery equipment installed must not create offensive noise so as to interfere with the amenity of the neighbouring properties.

Should an offensive noise complaint be received and verified by Council staff, an acoustic assessment is to be undertaken (by an appropriately qualified consultant) and an acoustic

report is to be submitted to Council's Manager – Environment and Health for review. Any noise attenuation measures directed by Council's Manager - Environment and Health must be implemented.

### **73. 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(s), 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. All waste storage areas must be screened from view from any adjoining residential property or public place. Waste storage area(s) must be kept clean and tidy, bins must be washed regularly, and contaminants must be removed from bins prior to any collection.



**DRAFT DEVELOPMENT CONSENT ATTACHMENT A – TfNSW REQUIREMENTS  
DATED 11 OCTOBER 2023**

Transport for NSW

11 October 2023

TfNSW Reference: SYD23/00061/03

Council's Reference: 1070/2023/JP – CNR- 50746

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

Attention: Sophia Brown



**RE: CONSTRUCT THREE STOREY CLASSROOM – CASTLE HILL PUBLIC SCHOOL  
5 LES SHORE PLACE, CASTLE HILL**

Dear Sir/Madam

Reference is made to Council's referral dated 27 September 2023 and further additional information on 5 October 2023, regarding the abovementioned development which was referred to Transport for NSW (TfNSW) in accordance with clause 2.122 *State Environmental Planning Policy (Transport and Infrastructure) 2021* and concurrence in accordance with Section 138 of the *Roads Act 1993*.

TfNSW has reviewed the recommended Council conditions to address TfNSW concern regarding lack of pedestrian storage area at the intersection of Pennant Street/Les Shore Place. TfNSW raises no objection to the application and requests the following additional requirements being included in the development consent:

1. Any proposed works on Pennant Street and/or modification to the Traffic Control Signal (TCS) plan at the signalised intersection of Pennant Street/Les Shore Place shall be designed to meet TfNSW requirements, and endorsed by a suitably qualified practitioner. The design requirements shall be in accordance with AUSTRROADS and other Australian Codes of Practice. The certified copies of the TCS design and 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@transport.nsw.gov.au](mailto:development.sydney@transport.nsw.gov.au)

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

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

2. For a site to be eligible for a School Crossing Supervisor (SCS), it must meet the following criteria:
  - The site must have an existing children's crossing, pedestrian crossing (zebra) or combined crossing (children's and zebra) (and be on a public road or not be on a private road)
  - The crossing must be used by infant and/or primary school children
  - The site must be located within a 40km/h school zone
  - In the morning or afternoon, the crossing must register counts of either:
    - i. 50 or more unaccompanied infant and/or primary school children, or
    - ii. 300 or more passenger car units (heavy vehicles over three tonnes unladen are counted as two passenger car units)
  - The site must be considered a safe working environment for a school crossing supervisor.

The above information should be submitted to TfNSW for review and approval prior to a SCS being granted to the site. Please send all documentation to [development.sydney@transport.nsw.gov.au](mailto:development.sydney@transport.nsw.gov.au)

If you have any further inquiries in relation to this development application, please contact Annelly Ketheson at [Annelly.Ketheson@transport.nsw.gov.au](mailto:Annelly.Ketheson@transport.nsw.gov.au) or alternatively [development.sydney@transport.nsw.gov.au](mailto:development.sydney@transport.nsw.gov.au).

Yours sincerely,

A handwritten signature in black ink, appearing to read "Zhaleh Alamouti".

**Zhaleh Alamouti**  
Senior Land Use Planner  
Planning and Programs, Greater Sydney Division

Level 4, 4 Parramatta Square, 12 Darcy Street, Parramatta 2150  
PO Box 973 Parramatta CBD NSW 2124

OFFICIAL

[W transport.nsw.gov.au](http://www.transport.nsw.gov.au)

**DRAFT DEVELOPMENT CONSENT ATTACHMENT B – ENDEAVOUR ENERGY  
REQUIREMENTS DATED 17 JANUARY 2023**

Development Application and Planning Proposal Review  
NSW Planning Portal Concurrence and Referral



Authority	Authority's Reference	Agency Concurrence and Referral	Authority Contact	Authority Notification	Submission Due	Submission Made
The Hills Shire Council	1070/2023/JP	CNR-50746	Sophia Brown	17/01/2023	7/02/2023	17/01/2023

Address	Land Title
5 LES SHORE PLACE CASTLE HILL 2154	Lot 1 DP 802735

**Scope of Development Application or Planning Proposal**

Construction of a three (3) storey classroom building comprising of thirty-six (36) new GLS; construction of new hall to include COLA and Canteen; and earthworks, new landscaping, including tree planting, ramping and pathways.

**As shown in the below site plan from Endeavour Energy's G/Net master facility model:**

There are:

- No easements benefitting Endeavour Energy (active easements are indicated by red hatching).
- Low voltage and 11,000 volt / 11 kilovolt (kV) high voltage underground cables and padmount substation no. 19024 located on the site from which there is a low voltage underground service conductor going to the customer connection point for the existing premises.

Whilst not held under easement, they are regarded as protected works under Section 53 'Protection of certain electricity works' of the *Electricity Supply Act 1995* (NSW) and may be managed as if an easement is in place.

- Low voltage and 11 kV high voltage underground cables (including a low voltage pillar) to road verge / roadway.



**Endeavour Energy**  
ABN 11 247 365 623  
T 133 718  
51 Huntingwood Drive  
Huntingwood NSW 2148  
PO Box 811, Seven Hills NSW 1730  
[endeavourenergy.com.au](http://endeavourenergy.com.au)

Relevant / applicable clause numbers from Endeavour Energy's standard conditions for Development Application and Planning Proposal Review indicated by ☒.

Condition	Advice	Clause No.	Issue	Detail
<input type="checkbox"/>	<input type="checkbox"/>	1	Adjoining Sites	Adjoining or nearby development / use should be compatible with the use of Endeavour Energy's sites.
<input type="checkbox"/>	<input type="checkbox"/>	2	Asbestos	Area identified or suspected of having asbestos or asbestos containing materials (ACM) present in the electricity network.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	3	Asset Planning	Applicants should not assume adequate supply is immediately available to facilitate their proposed development.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	4	Asset Relocation	Application must be made for an asset relocation / removal to determine possible solutions to the developer's requirements.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	5	Before You Dig	Before commencing any underground activity the applicant must obtain advice from the Before You Dig service.
<input type="checkbox"/>	<input type="checkbox"/>	6	Bush Fire	Risk needs to be managed to maintain the safety of customers and the communities served by the network.
<input type="checkbox"/>	<input type="checkbox"/>	7	Construction Management	Integrity of electricity infrastructure must be maintained and not impacted by vehicle / plant operation, excessive loads, vibration, dust or moisture penetration.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	8	Contamination	Remediation may be required of soils or surfaces impacted by various forms of electricity infrastructure.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	9	Demolition	All electricity infrastructure shall be regarded as live and care must be taken to not interfere with any part of the electricity network.
<input type="checkbox"/>	<input type="checkbox"/>	10	Dispensation	If a proposal is not compliant with Endeavour Energy's engineering documents or standards, the applicant must request a dispensation.
<input type="checkbox"/>	<input type="checkbox"/>	11	Driveways	For public / road safety and to reduce the risk of vehicle impact, the distance of driveways from electricity infrastructure should be maximised.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	12	Earthing	The construction of any building or structure connected to or in close proximity to the electrical network must be properly earthed.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	13	Easement Management	Preference is for no activities to occur in easements and they must adhere to minimum safety requirements.
<input type="checkbox"/>	<input type="checkbox"/>	14	Easement Release	No easement is redundant or obsolete until it is released having regard to risks to its network, commercial and community interests.
<input type="checkbox"/>	<input type="checkbox"/>	15	Easement Subdivision	The incorporation of easements into multiple / privately owned lots is generally not supported.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	16	Emergency Contact	Endeavour Energy's emergency contact number 131 003 should be included in any relevant risk and safety management plan.
<input type="checkbox"/>	<input type="checkbox"/>	17	Excavation	The integrity of the nearby electricity infrastructure shall not be placed at risk by the carrying out of excavation work.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	18	Flooding	Electricity infrastructure should not be subject to flood inundation or stormwater runoff.
<input type="checkbox"/>	<input type="checkbox"/>	19	Hazardous Environment	Electricity infrastructure can be susceptible to hazard sources or in some situations be regarded as a hazardous source.
<input type="checkbox"/>	<input type="checkbox"/>	20	Modifications	Amendments can impact on electricity load and the contestable works required to facilitate the proposed development.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	21	Network Access	Access to the electricity infrastructure may be required at any time particularly in the event of an emergency.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	22	Network Asset Design	Design electricity infrastructure for safety and environmental compliance consistent with safe design lifecycle principles.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	23	Network Connection	Applicants will need to submit an appropriate application based on the maximum demand for electricity for connection of load.

Condition	Advice	Clause No.	Issue	Detail
<input checked="" type="checkbox"/>	<input type="checkbox"/>	24	Protected Works	Electricity infrastructure without an easement is deemed to be lawful for all purposes under Section 53 'Protection of certain electricity works' of the <i>Electricity Supply Act 1995</i> (NSW).
<input type="checkbox"/>	<input checked="" type="checkbox"/>	25	Prudent Avoidance	Development should avert the possible risk to health from exposure to emissions from electricity infrastructure such as electric and magnetic fields (EMF) and noise.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	26	Public Safety	Public safety training resources are available to help general public / workers understand the risk and how to work safely near electricity infrastructure.
<input type="checkbox"/>	<input type="checkbox"/>	27	Removal of Electricity	Permission is required to remove service / metering and must be performed by an Accredited Service Provider.
<input type="checkbox"/>	<input type="checkbox"/>	28	Safety Clearances	Any building or structure must comply with the minimum safe distances / clearances for the applicable voltage/s of the overhead power lines.
<input type="checkbox"/>	<input type="checkbox"/>	29	Security / Climb Points	Minimum buffers appropriate to the electricity infrastructure being protected need to be provided to avoid the creation of climb points.
<input type="checkbox"/>	<input type="checkbox"/>	30	Service Conductors	Low voltage service conductors and customer connection points must comply with the 'Service and Installation Rules of NSW'.
<input type="checkbox"/>	<input type="checkbox"/>	31	Solar / Generation	The performance of the generation system and its effects on the network and other connected customers needs to be assessed.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	32	Streetlighting	Streetlighting should be reviewed and if necessary upgraded to suit any increase in both vehicular and pedestrian traffic.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	33	Sustainability	Reducing greenhouse gas emissions and helping customers save on their energy consumption and costs through new initiatives and projects to adopt sustainable energy technologies.
<input type="checkbox"/>	<input type="checkbox"/>	34	Swimming Pools	Whenever water and electricity are in close proximity, extra care and awareness is required.
<input type="checkbox"/>	<input type="checkbox"/>	35	Telecommunications	Address the risks associated with poor communications services to support the vital electricity supply network infrastructure.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	36	Vegetation Management	Landscaping that interferes with electricity infrastructure is a potential safety risk and may result in the interruption of supply.
Completed by:				Decision
Cornelis Duba				Approve (with conditions)

Cornelis Duba | Development Application Specialist

M 0455250981

E [cornelis.duba@endeavourenergy.com.au](mailto:cornelis.duba@endeavourenergy.com.au)

51 Huntingwood Drive, Huntingwood NSW 2148. Dharug Country

[endeavourenergy.com.au](http://endeavourenergy.com.au) | [in](#) [f](#) [v](#) [t](#)



Endeavour Energy respectfully acknowledges the Traditional Custodians on whose lands we live, work, and operate and their Elders past, present and emerging.



#### Reason(s) for Conditions / Decision (If applicable)

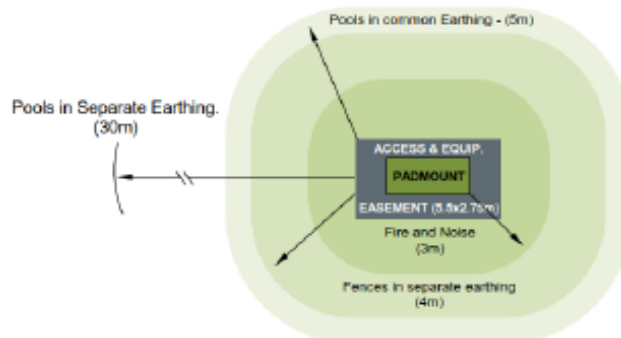
- Protected works under Section 53 'Protection of certain electricity works' of the *Electricity Supply Act 1995* (NSW) may be managed as if an easement is in place. Endeavour Energy's Mains Design Instruction MDI 0044 'Easements and Property Tenure', Table 1 – 'Minimum easement widths' requires a minimum easement width of:

- 3 metres for low voltage up to 22 kV high voltage underground cables (assumed to have no concrete protection unless proven otherwise) requires a 3 metre minimum easement width ie. 1.5 metres to both sides of the centre line of the cable ducts.
- 2.75 x 5.5 metres for a padmount substation (single transformer).

As shown in the following Figure A4.3 'Padmount easements and clearances', in addition to the easement, padmount substations also require additional clearances / restriction for:

- Fire rating which usually extends 3 metres horizontally from the base of the substation footing / plinth
- Swimming pool or spa which extends 5 metres from the easement (which may not be required for non-residential use).

#### A4.3 - Padmount easements and clearances



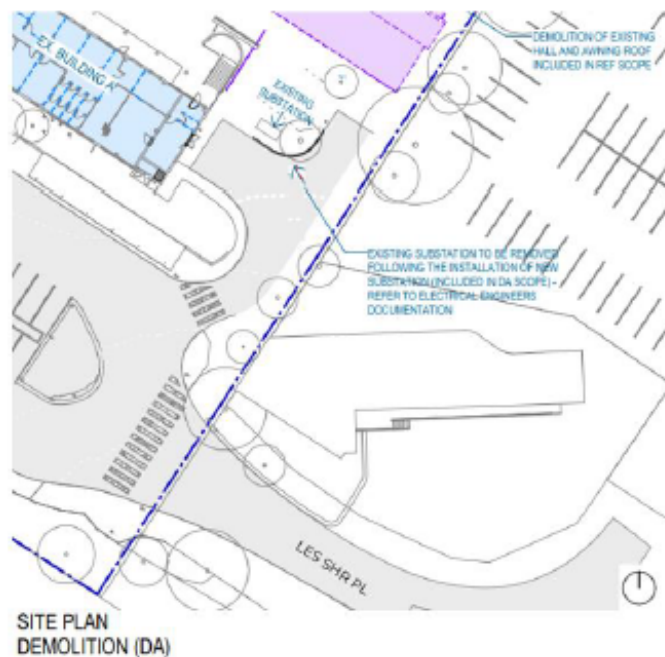
- All encroachments and / or activities (works) within or affecting an easement or protected works (other than those approved / certified by Endeavour Energy's Customer Network Solutions Branch as part of an enquiry / application for load or asset relocation project and even if not part of the Development Application) need to be referred to Endeavour Energy's Easement Officer for assessment and possible approval if they meet the minimum safety requirements and controls. However please note that this does not constitute or imply the granting of approval by Endeavour Energy to any or all of the proposed encroachments and / or activities within the easement.

For further information please refer to the attached copies of Endeavour Energy's:

- General Restrictions for Underground Cables.
- Guide to Fencing, Retaining Walls and Maintenance Around Padmount Substations.
- Mains Design Instruction MDI 0044 'Easements and Property Tenure Rights' which deals with activities / encroachments within easements.
- The Statement of Environmental Effects does not appear to address in detail whether the available electricity services are adequate for the proposed development ie. it indicates 'Existing services will be diverted and augmented, including the provision of a new substation'.

The following extract of the Site Plan indicates 'EXISTING SUBSTATION TO BE REMOVED FOLLOWING THE INSTALLATION OF NEW SUBSTATION (INCLUDED IN DA SCOPE) - REFER TO ELECTRICAL ENGINEERS DOCUMENTATION'. The Electrical Engineers Documentation does not appear to be included in the documents available on the NSW Planning Portal and the Architectural Plans do not appear to show a new substation location.

The application for an asset relocation / removal should be made to Endeavour Energy's Customer Network Solutions Branch.



- To ensure an adequate connection, the applicant will need to engage an Accredited Service Provider (ASP) of an appropriate level and class of accreditation to assess the electricity load and the proposed method of supply for the development.
- 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'.
- Generally it is the Level 3 Accredited Service Provider's (ASP) responsibility (engaged by the developer) to make sure substation location and design complies with Endeavour Energy's standards the suitability of access, safety clearances, fire ratings, flooding etc.
- As well as the capacity / provision of a padmount substation, other factors such as the size and rating / load on the conductors and voltage drop (which can affect the quality of supply particularly with long conductor runs) etc. need to be assessed. However the extent of any works required will not be determined until the final load assessment is completed.
- Endeavour Energy is urging applicants /customers to engage with an Electrical Consultant / Accredited Service Provider (ASP) prior to finalising plans in order to assess and incorporate any required electricity infrastructure. In so doing the consideration can also be given to its impact on the other aspects of the proposed development. This can assist in avoiding the making of amendments to the plan or possibly the need to later seek modification of an approved development application.
- Whilst there may be no restrictions in legislation that stop sensitive uses such as schools, pre-schools, day / child care centres being placed next to electricity infrastructure, prudent avoidance measures should however be implemented.

As a guide please refer to the Endeavour Energy's Mains Design Instruction MDI 0044 'Easements and Property Tenure Rights', Table 1 – 'Minimum easement widths'. With the observance of these separation distances, electric and magnetic fields (EMF) should not exceed the recommended magnetic field public exposure limits.

- The planting of large / deep rooted trees near electricity infrastructure is opposed by Endeavour Energy. Existing trees which are of low ecological significance in proximity of electricity infrastructure should be removed and if necessary replaced by an alternative smaller planting. The landscape designer will need to ensure any planting near electricity infrastructure achieves Endeavour Energy's vegetation management requirements.

No planting of trees is allowed in the easement for a padmount substation. Screening vegetation around a padmount substation should be planted a minimum distance of 800mm plus half of the mature canopy width from the substation easement and have shallow / non-invasive roots. This is to avoid trees growing over the easement as falling branches may damage the cubicle and tree roots the underground cables. All vegetation is to be maintained in such a manner that it will allow unrestricted access by electrical workers to the substation easement all times.

- Not all the conditions / advice marked may be directly or immediately relevant or significant to the Development Application. However, Endeavour Energy's preference is to alert proponents / applicants of the potential matters that may arise should development within closer proximity of the existing and/or required electricity infrastructure needed to facilitate the proposed development on or in the vicinity of the site occur.
- Please note Endeavour Energy can only assess the Development Application based on the information provided by the applicant and Council. Due to time and resource constraints it is not possible to refer all development application notifications to the relevant internal stakeholders for review and advice or to request additional information from the applicant or Council. Applicants should be providing proper detailed plans of the electricity infrastructure / easements on or near the site and address the potential impacts of the proposed development thereon in the Statement of Environmental Effects. The provision of inadequate detail may result in Endeavour Energy objecting to the Development Application.



### Condition or Advice

With Endeavour Energy's Development Application and Planning Proposal Review process / system the intent of the 'Standard Conditions' being indicated as either a 'Condition' or 'Advice' essentially depends on the risk associated with the matter. If the matter is one that is likely or very likely to be an issue / needed to be addressed by the applicant and may require corrective action, then it is marked as a 'Condition'. If the matter is less likely and the consequences of the applicant not addressing it are lower or can be readily rectified, then it is marked as 'Advice'. If the matter is considered to be not applicable / relevant then it is not marked as either.

For example, the obtaining advice from the Before You Dig service in accordance with the requirements of the *Electricity Supply Act 1995* (NSW) and associated Regulations is a standard / regulatory requirement. It will be generally indicated as 'Advice'. If the Site Plan from Endeavour Energy's G/Net Master Facility Model indicates there is some uncertainty over the extent or location of the underground cables on or near the site, it would then be indicated as 'Condition' and require action to be undertaken by the applicant eg. the use of an underground asset locating device or a certified locator to verify the asset location.

### Decision

In the NSW Planning Portal for the 'Agency response', as Endeavour Energy is not a concurring authority under the provision of the *Environmental Planning and Assessment Act 1979* (NSW), it does not 'Approve' or 'Refuse' a Development Application in the Portal. It will 'Approve (with conditions)' (which may 'Object' in the submission and detail the matters requiring resolution), or if all the matters in the submission are marked as for 'Advice', the outcome of the assessment will also be 'Advice'.

### Further Advice

The 'Standard Conditions' include additional advice and contact details and further information is also available on Endeavour Energy's website at <https://www.endeavourenergy.com.au/>.



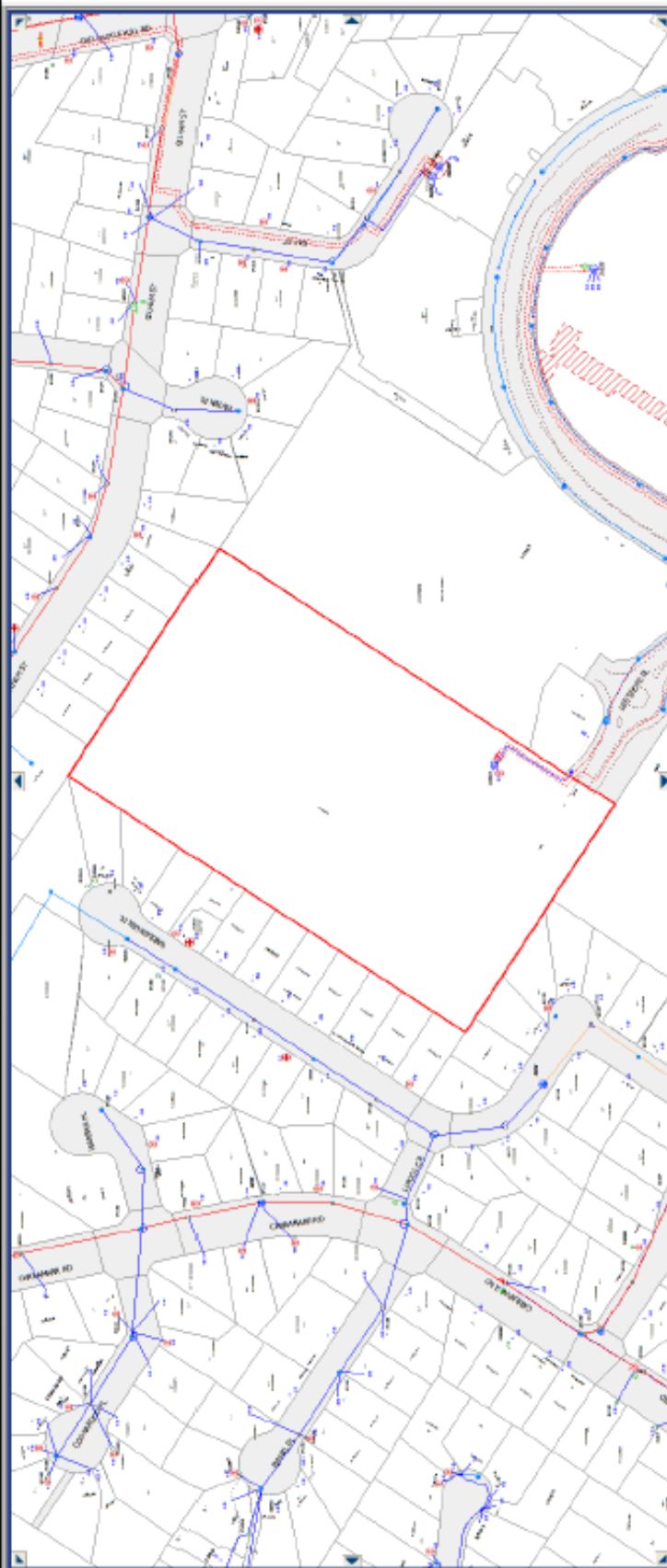
The following contacts can be reached by calling Endeavour Energy via Head Office enquiries on business days from 9am - 4:30pm on telephone: 133 718 or (02) 9853 6666.

Branch / Section	Matters	Email
Customer Network Solutions	Electricity supply or asset relocation who are responsible for managing the conditions of supply with the applicant and their Accredited Service Provider (ASP).	<a href="mailto:cicadmin@endeavourenergy.com.au">cicadmin@endeavourenergy.com.au</a>
Easement Officers	Easement management or protected works / assets.	<a href="mailto:Easements@endeavourenergy.com.au">Easements@endeavourenergy.com.au</a>
Property	Property tenure eg. the creation or release of easements.	<a href="mailto:network_property@endeavourenergy.com.au">network_property@endeavourenergy.com.au</a>
Field Operations (to the relevant Field Service Centre).	Safety advice for building or working near electrical assets in public areas (including zone and transmission substations).	<a href="mailto:Construction.Works@endeavourenergy.com.au">Construction.Works@endeavourenergy.com.au</a>

Please note Endeavour Energy's above contacts do not have access to the NSW Planning Portal. To resolve any matters direct contact should be made with the responsible contact. This will avoid double handling and possible delays in responding to the applicant / Council.

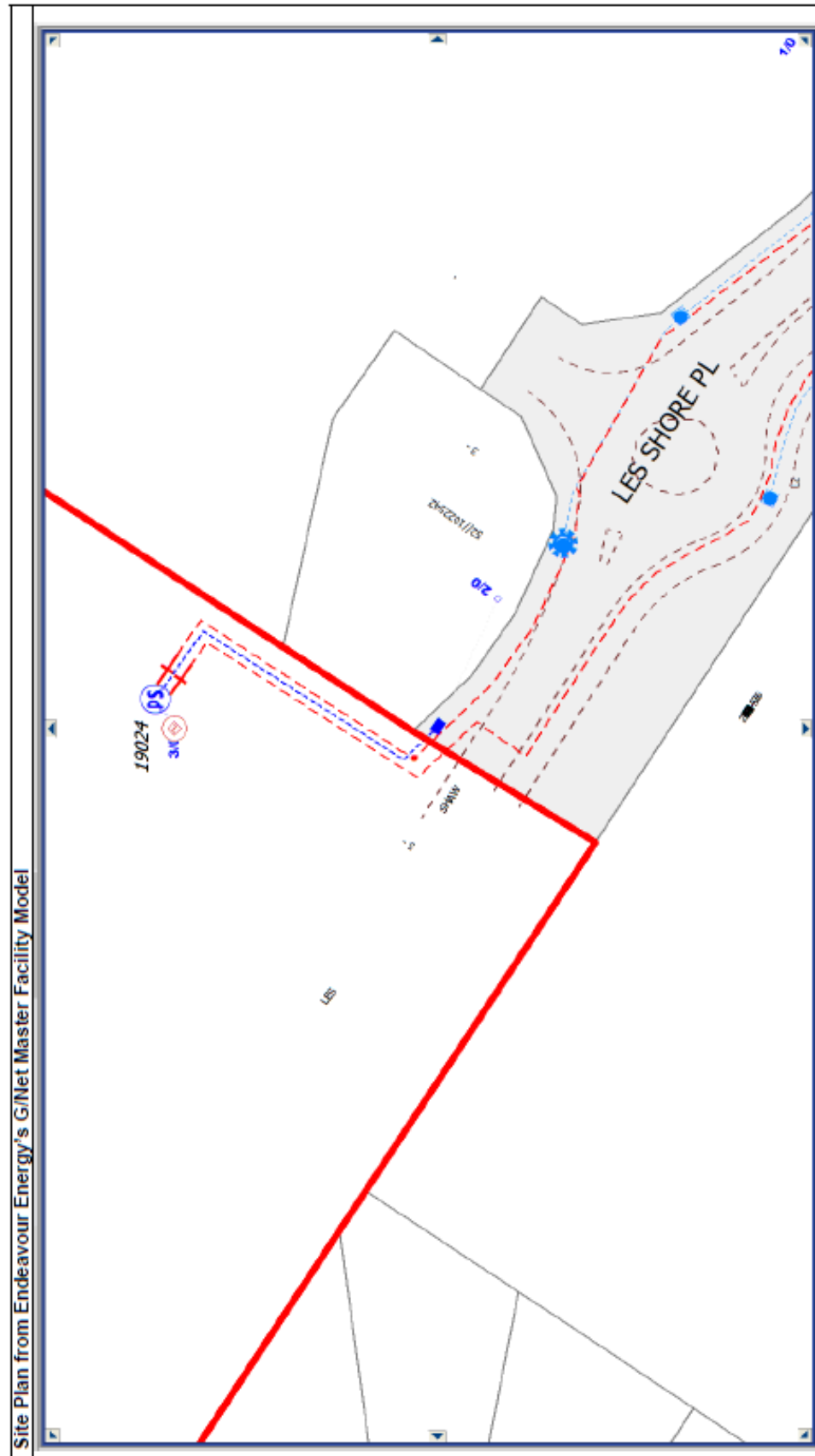
Details of the Accredited Service Provider (ASP) Scheme which accredits organisations to perform contestable work on the NSW electricity distribution network are available via the following link to the Energy NSW website at <https://www.energysaver.nsw.gov.au/get-energy-smart/dealing-energy-providers/installing-or-altering-your-electricity-service>.


























# Site Plan from Endeavour Energy's G/Net Master Facility Model



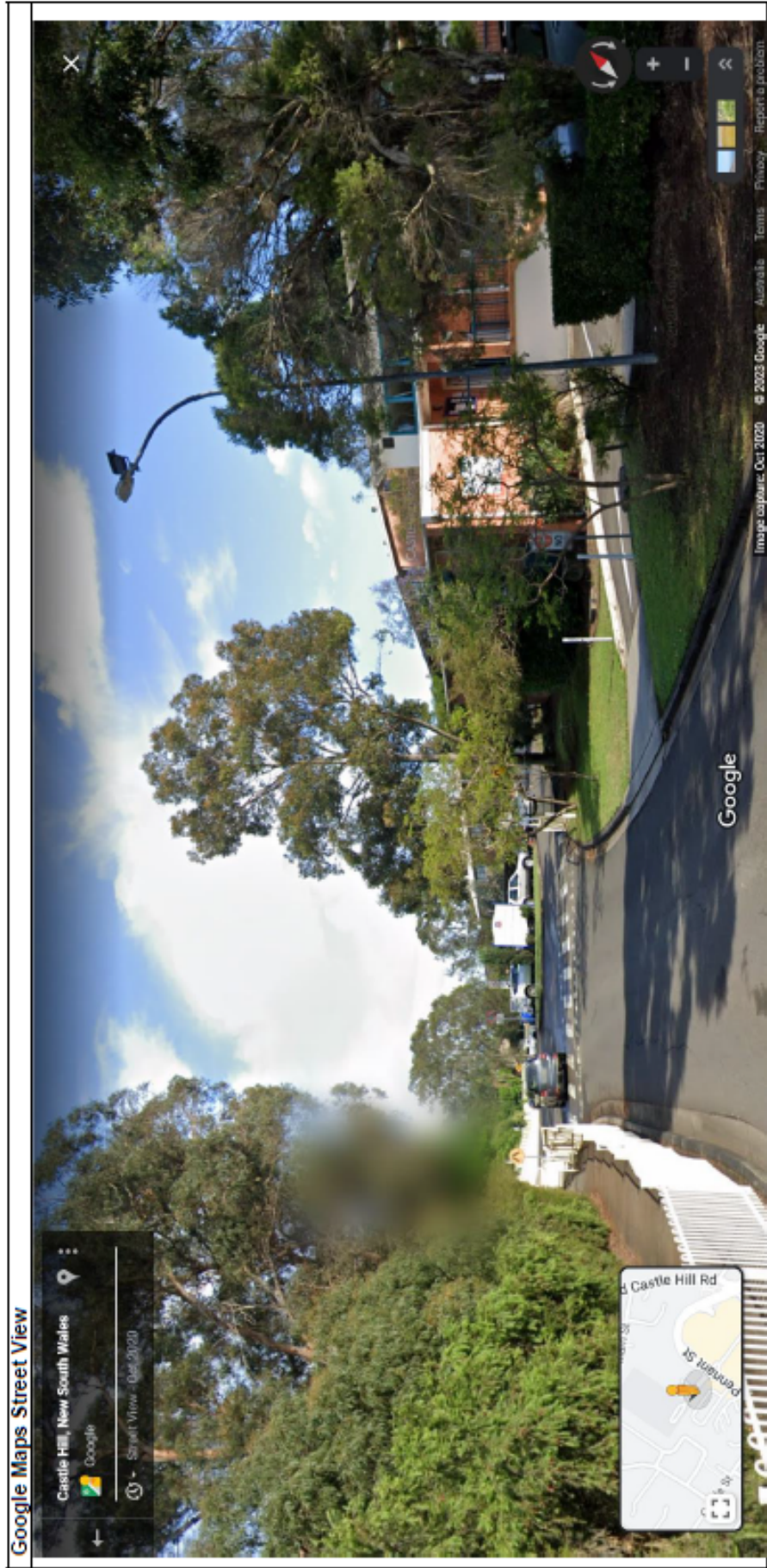
G3E_FID	Feature Name	Component Name	G3E_CID	G3E_ID	LOT	SECTION	DP
65962896	Crown Parcel	Crown Parcel Find	1	1782505	1		802735

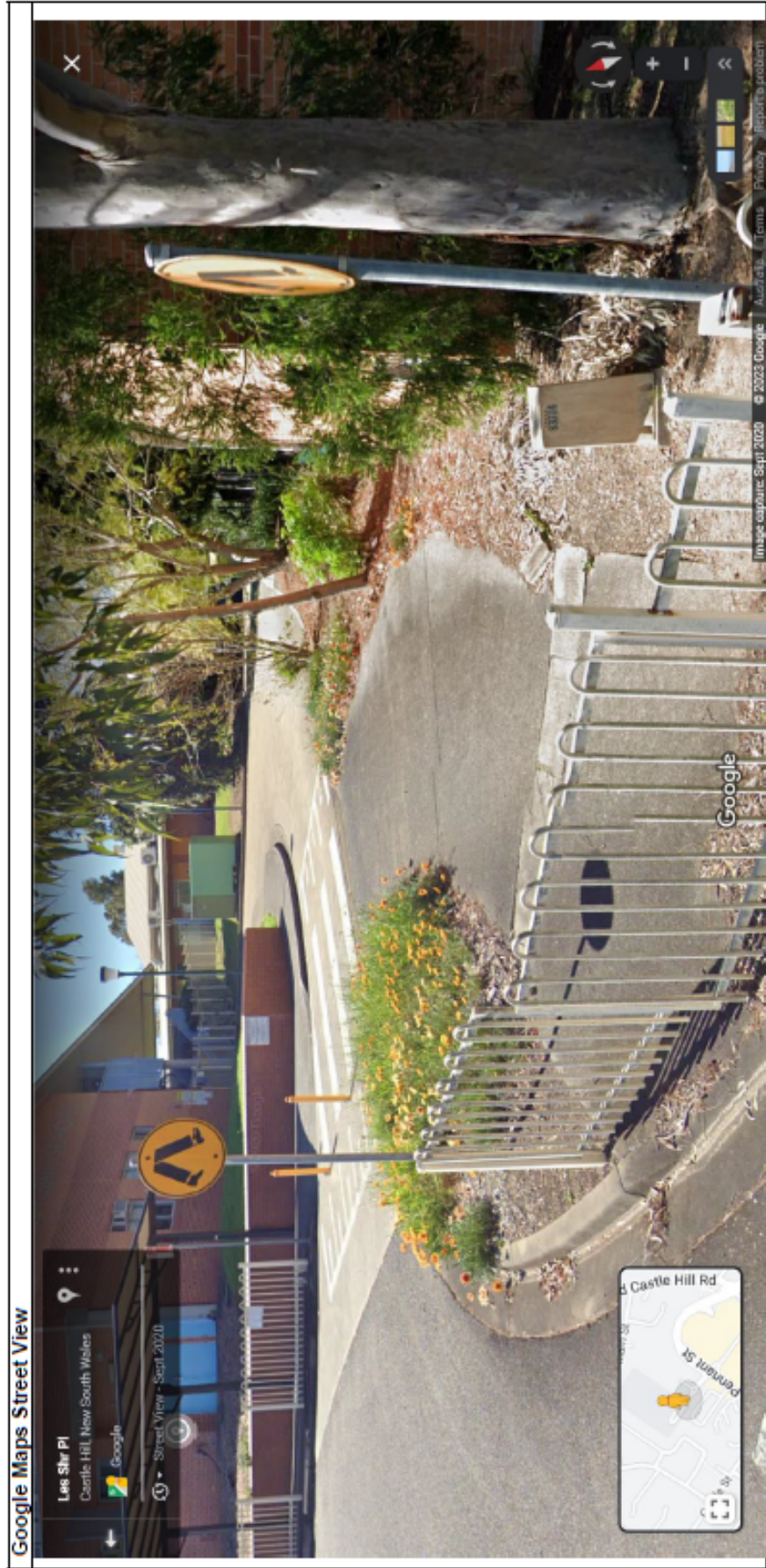
Please note the location, extent and type of any electricity infrastructure, boundaries etc. shown on the plan is indicative only. In addition it must be recognised that the electricity network is constantly extended, augmented and modified and there is a delay from the completion and commissioning of these works until their capture in the model. Easements benefiting Endeavour Energy are indicated by red hatching. Generally (depending on the scale and/or features selected), low voltage (normally not exceeding 1,000 volts) is indicated by blue lines and high voltage (normally exceeding 1,000 volts but for Endeavour Energy's network not exceeding 132,000 volts / 132 kV) by red lines (these lines can appear as solid or dashed and where there are multiple lines / cables only the higher voltage may be shown). This plan only shows the Endeavour Energy network and does not show electricity infrastructure belonging to other authorities or customers owned electrical equipment beyond the customer connection point / point of supply to the property. This plan does not constitute the provision of information on underground electricity power lines by network operators under Part 5E 'Protection of underground electricity power lines' of the *Electricity Supply Act 1995* (NSW).



LEGEND	
	Padmount substation
	Indoor substation
	Ground substation
	Kiosk substation
	Cottage substation
	Pole mounted substation
	High voltage customer substation
	Metering unit
	Switch station
	Indoor switch station
	Voltage regulator
	Customer connection point
	Low voltage pillar
	Streetlight column
	Life support customer
	Tower
	Pole
	Pole with streetlight
	Customer owned / private pole
	Cable pit
	Load break switch
	Recloser
	Proposed removed
	Easement
	Subject site









## ATTACHMENT B – APPLICANT’S APPROVAL UNDER CLAUSE 4.33 OF THE EP&A ACT 1979

RE: Castle Hill Public School - 1070/2023/JP - DRAFT CONDITIONS



Amit Rampal (Amit Rampal) <Amit.Rampal@det.nsw.edu.au>

To Sophia Brown; Ed Hartley; Jane Fielding

Cc Aryan Qayumi; Paul Osborne; Pete Krause; Sudeep Bile; Matthew Spooner; Cynthia Dugan; Terri Slater

If there are problems with how this message is displayed, click here to view it in a web browser.



Draft Conditions of Consent - Castle Hill Public School - 5 Les Shore Place Castle Hill - 1070 2023 HA 25 October 2023.doc  
3 MB

### This Message is From an External Sender

This message came from outside your organization.

Hi Sophia,

Please accept this email as written agreement to the proposed conditions of consent, as attached here and in your last email below.

We would really appreciate an expedited determination for this Development Application.

Thanks for your help thus far.

**Amit Rampal**

Project Director | Infrastructure Delivery | School Infrastructure NSW

M 0433 757 548 | E [amit.rampal@det.nsw.edu.au](mailto:amit.rampal@det.nsw.edu.au) | [schoolinfrastructure.nsw.gov.au](http://schoolinfrastructure.nsw.gov.au)

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Education  
School Infrastructure

I acknowledge the homelands of all Aboriginal people and pay my respect to Country.

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## ATTACHMENT C – LOCALITY PLAN



- ☐ SUBJECT SITE
- ✓ PROPERTIES NOTIFIED
- SUBMISSION RECEIVED

**THE HILLS**  
Sydney's Garden Shire

### THE HILLS SHIRE COUNCIL


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## ATTACHMENT D – AERIAL MAP



 SUBJECT SITE

**THE HILLS**  
Sydney's Garden Shire

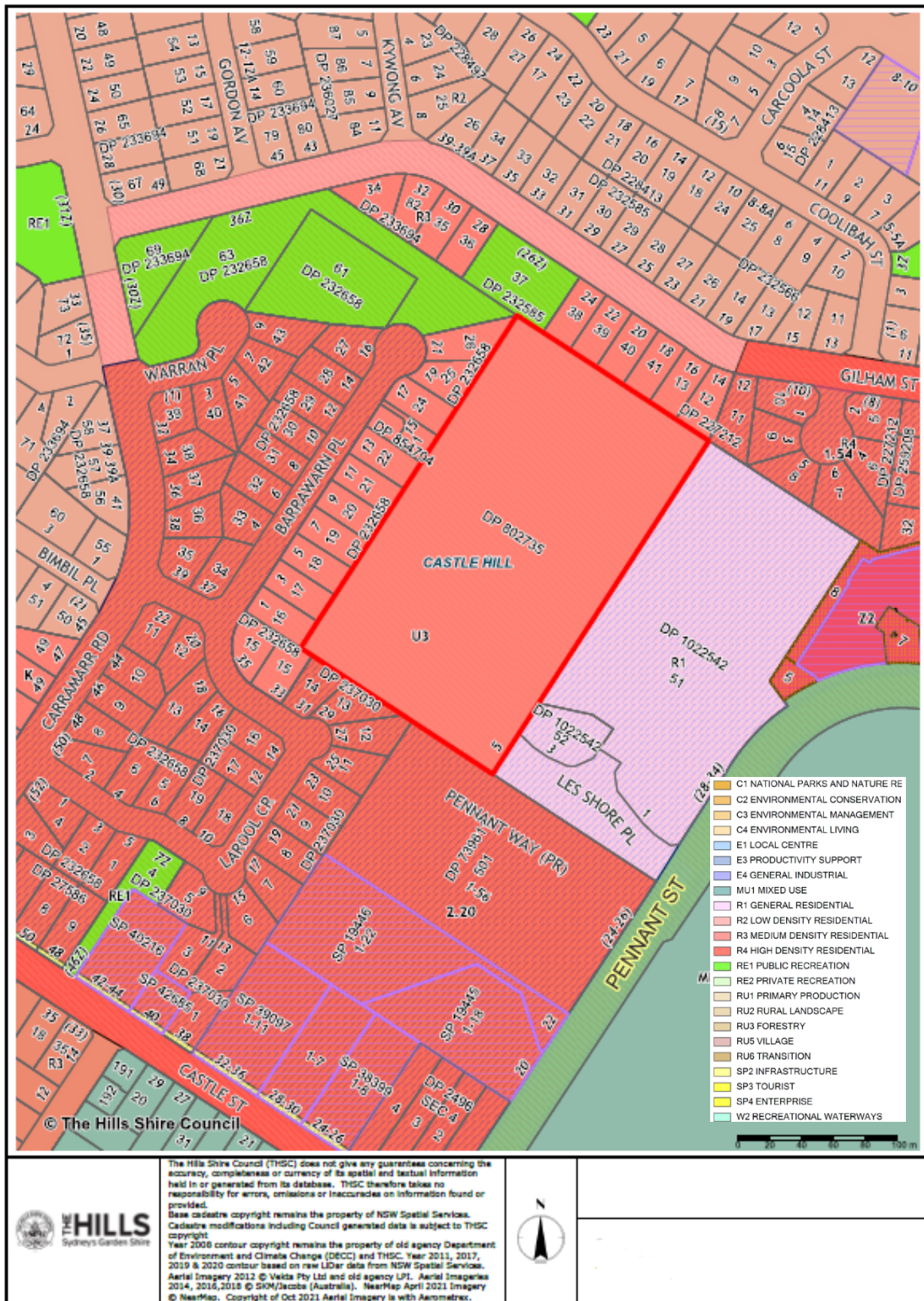
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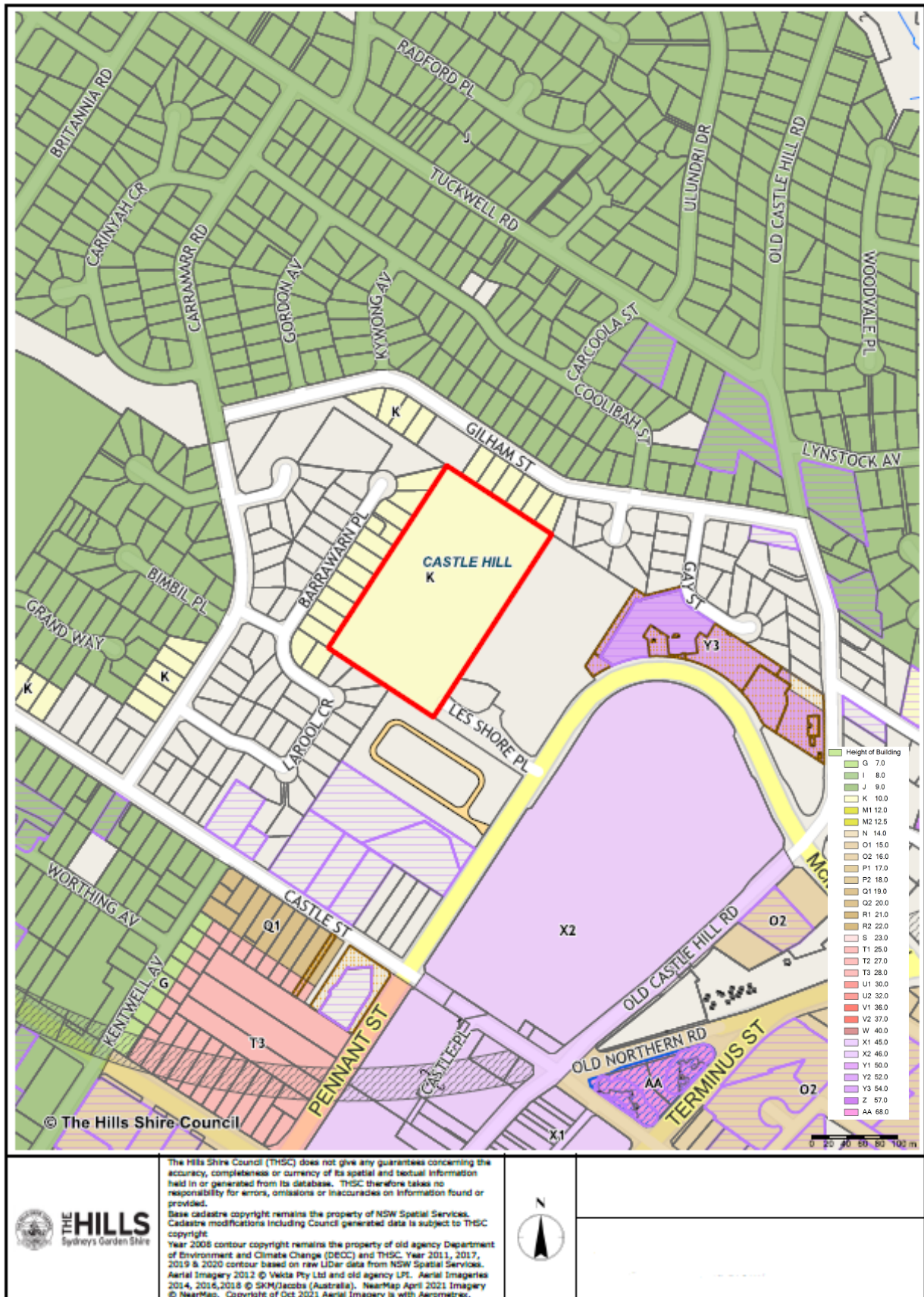


# ATTACHMENT E – ZONING MAP





## ATTACHMENT F – HEIGHT MAP



[illegible]



**CASTLE HILL PUBLIC SCHOOL**

**W-B**

**WOODS BAGOT**

**171666**

**NSW Education**

**School Infrastructure**

**Overall Plans**

**GROUND - NEW HALL LOWER**

**GROUND - NEW TEACHING BLOCK**

**CHPS-WB-MR-DA-13-05-03 2**

**FOR INFORMATION**

**Scale**

**1:200**

**North**

**Project Number**

**171666**

**Project Name**

**Woods Bagot**

**Project Location**

**NSW**

**Project Status**

**05**

**Project Date**

**13/05/2013**

**Project Author**

**Woods Bagot**

**Project Checker**

**Woods Bagot**

**Project Approver**

**Woods Bagot**

**Project Reviewer**

**Woods Bagot**

**Project Designer**

**Woods Bagot**

**Project Engineer**

**Woods Bagot**

**Project Architect**

**Woods Bagot**

**Project Structural Engineer**

**Woods Bagot**

**Project Mechanical Engineer**

**Woods Bagot**

**Project Electrical Engineer**

**Woods Bagot**

**Project Landscape Architect**

**Woods Bagot**

**Project Urban Designer**

**Woods Bagot**

**Project Planning Consultant**

**Woods Bagot**

**Project Transport Consultant**

**Woods Bagot**

**Project Environmental Consultant**

**Woods Bagot**

**Project Heritage Consultant**

**Woods Bagot**

**Project Archaeologist**

**Woods Bagot**

**Project Historian**

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**Project Sociologist**

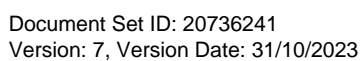
**Woods Bagot**

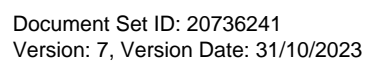
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**Woods Bagot**

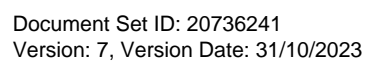
**Project Linguist**

**Woods Bagot**





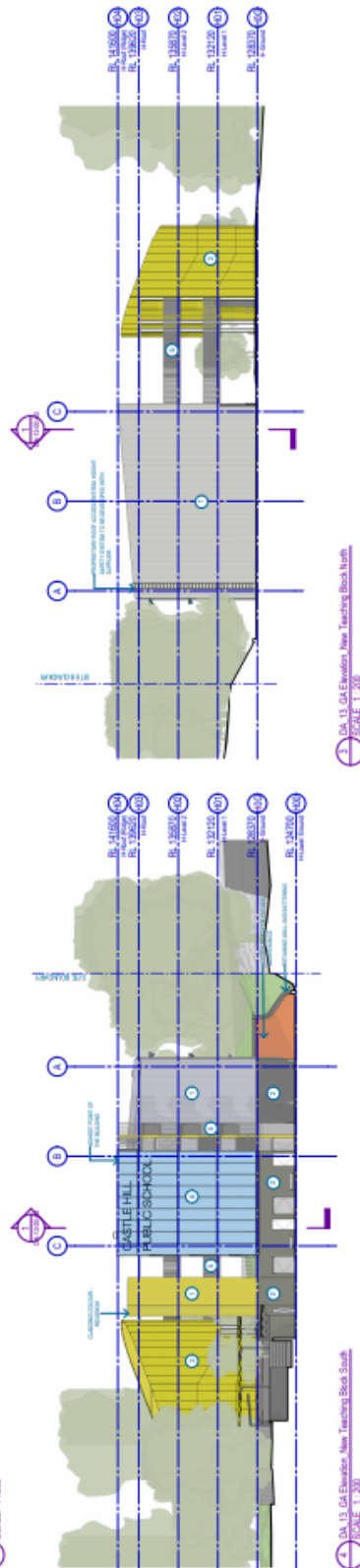
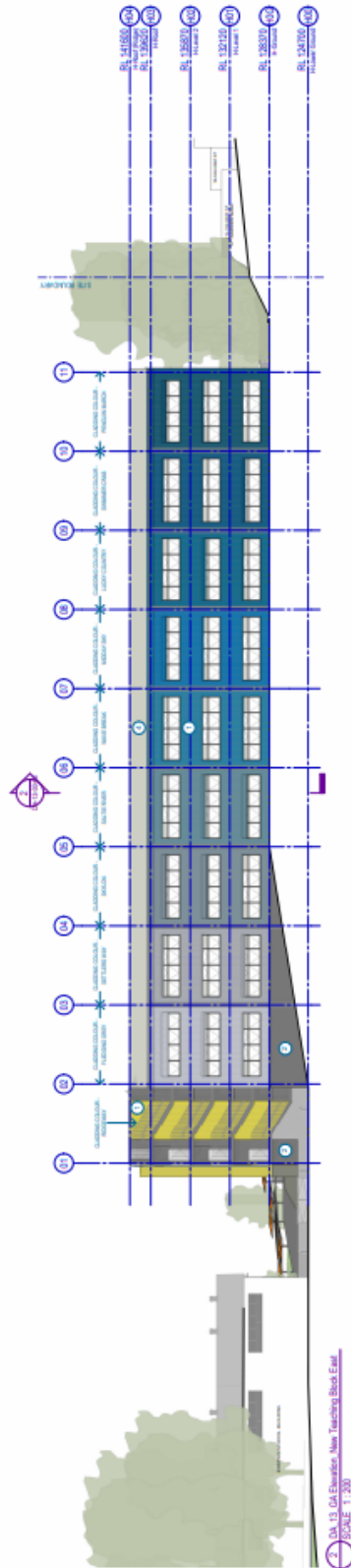
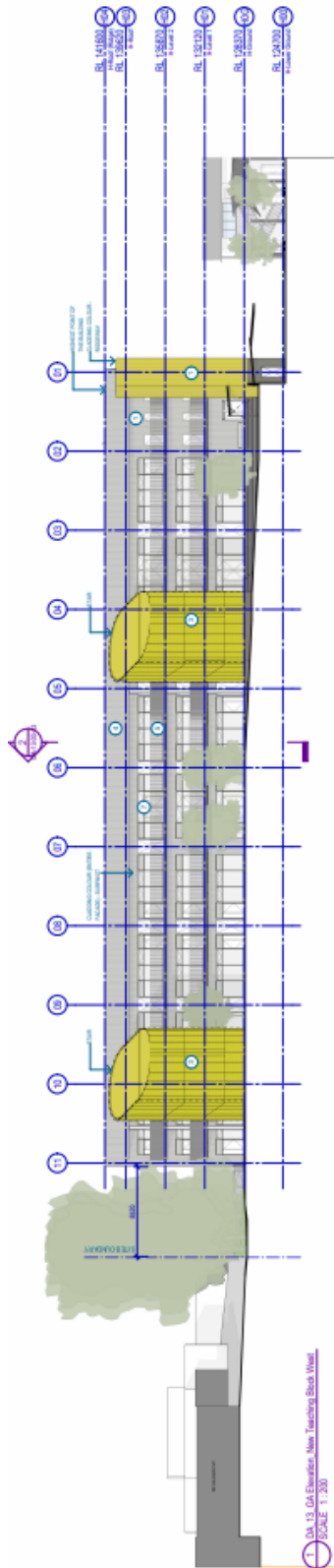








# ATTACHMENT I – ELEVATIONS



<b>W-B</b> WOODS BAGOT 12 HEB MAR 05 1:200		<b>NSW</b> Education School Infrastructure FOR INFORMATION	
Project: CASTLE HILL PUBLIC SCHOOL Overall: OVERALL FINISHED ELEVATIONS NEW TEACHING BLOCK Date: 12/05/2023 Scale: 1:200		Project: CASTLE HILL PUBLIC SCHOOL Overall: OVERALL FINISHED ELEVATIONS NEW TEACHING BLOCK Date: 12/05/2023 Scale: 1:200	
Project: CASTLE HILL PUBLIC SCHOOL Overall: OVERALL FINISHED ELEVATIONS NEW TEACHING BLOCK Date: 12/05/2023 Scale: 1:200		Project: CASTLE HILL PUBLIC SCHOOL Overall: OVERALL FINISHED ELEVATIONS NEW TEACHING BLOCK Date: 12/05/2023 Scale: 1:200	



ATTACHMENT J – LANDSCAPE PLANS





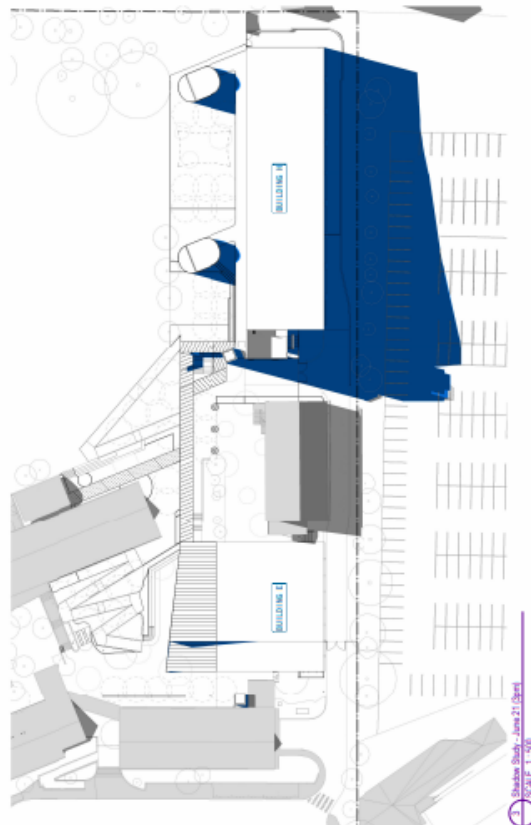
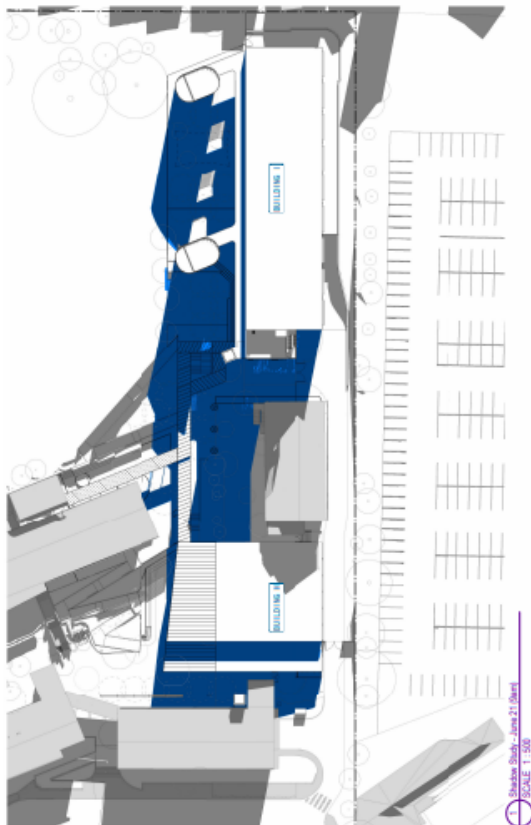
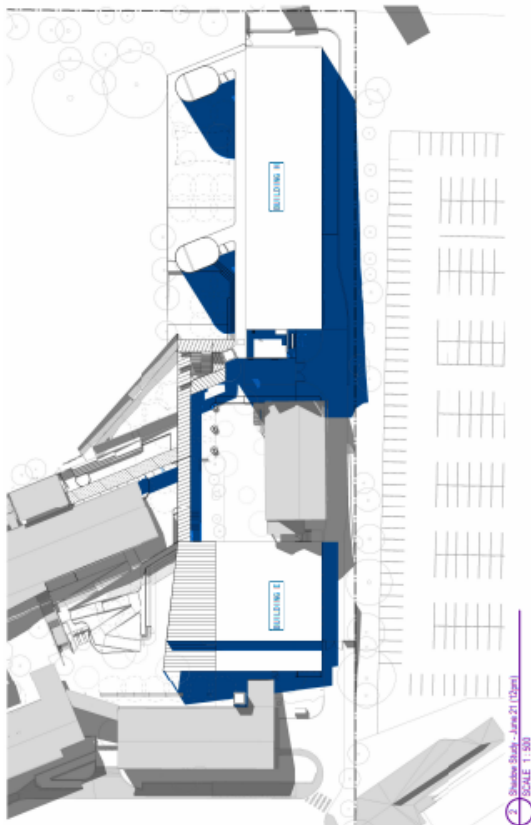








## ATTACHMENT K – SHADOW DIAGRAMS





# 1. Introduction

This Clause 4.6 Variation Request relates to the proposed upgrades at Castle Hill Public School (Castle Hill PS). The proposed upgrades include the construction of three-storey classroom building with thirty-six (36) new general learning spaces (GLS), construction of a new hall, covered outdoor learning area (COLA), canteen, and landscaping works, ramping and pathways.

This written request seeks to vary the development standard for maximum Height Of Buildings (HOB) under Clause 4.3 of *The Hills Local Environmental Plan 2019* (THLEP 2019). The request demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances of this particular case. The variation allows for a development that represents the orderly and economic use of the land, in a manner that is appropriate when considering the site's context, and therefore provides a better outcome on environmental planning grounds.

This Clause 4.6 Variation Request demonstrates that, notwithstanding the non-compliance, the proposed development:

- is consistent with and achieves the objectives of the development standard in Clause 4.3 of THLEP 2019 (Wehbe Test 1);
- provides sufficient environmental planning grounds to justify the contravention;
- is consistent with the objectives of the R3 Medium Residential zone objectives under the THLEP 2019;
- remains consistent with the applicable State and regional planning policies;
- provides a better planning outcome; and
- is in the public interest.

Accordingly, the proposed development can be approved as proposed, in accordance with Clause 4.6 of THLEP 2019.

## 1.1 Authorship

This Clause 4.6 Variation Request has been prepared by Boris Santana, Senior Urban Planner, and Amy Wilkins, Urban Planner. It has been reviewed by Jane Fielding, Senior Associate, Planning.

## 2.

# Clause 4.6 exceptions to development standards

Clause 4.6 of the THLEP 2012 permits the consent authority to grant development consent for a development even though the development would contravene a development standard imposed by THLEP 2019. The objectives in Clause 4.6 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.

The Clause goes on to provide the following:

- 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 Secretary has been obtained*
- 5) *In deciding whether to grant concurrence, the Secretary must consider:*
  - (a) *whether contravention of the development standard raises any matters 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.*

This document constitutes the written request required by Clause 4.6(3) in relation to the proposal's breach of the HOB development standard.

### 3. The development standard to be varied

As noted earlier, this Clause 4.6 Variation has been prepared as a written request seeking to vary Clause 4.3 HOB under THLEP 2019.

Clause 4.3 states the following:

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

- (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.*

(2) *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 THLEP 2019 HOB Map identifies that the subject development site has a maximum height of 10m (refer to **Figure 1** below).



**Figure 1** Maximum HOB Map  
Site outlined in red.  
Source: THLEP 2019

## 4. Extent of variation to the development standard

This Development Application (DA) seeks to vary the 10m height control by proposing a maximum height of 14.8m. The percentage of this variation against the height control is 48%. The non-compliance with the building height control is limited to the new three storey building and is due to the design and the site's topography.

The design provides for a three-storey classroom building. The new building will have typical floor to floor heights of 3.75m, which exceeds 10 metres when combined. Furthermore, the design employs a sloped roof which rises away from the eastern property boundary. This design is intended to minimise building bulk and impact along the common property boundary with the adjoining car park.

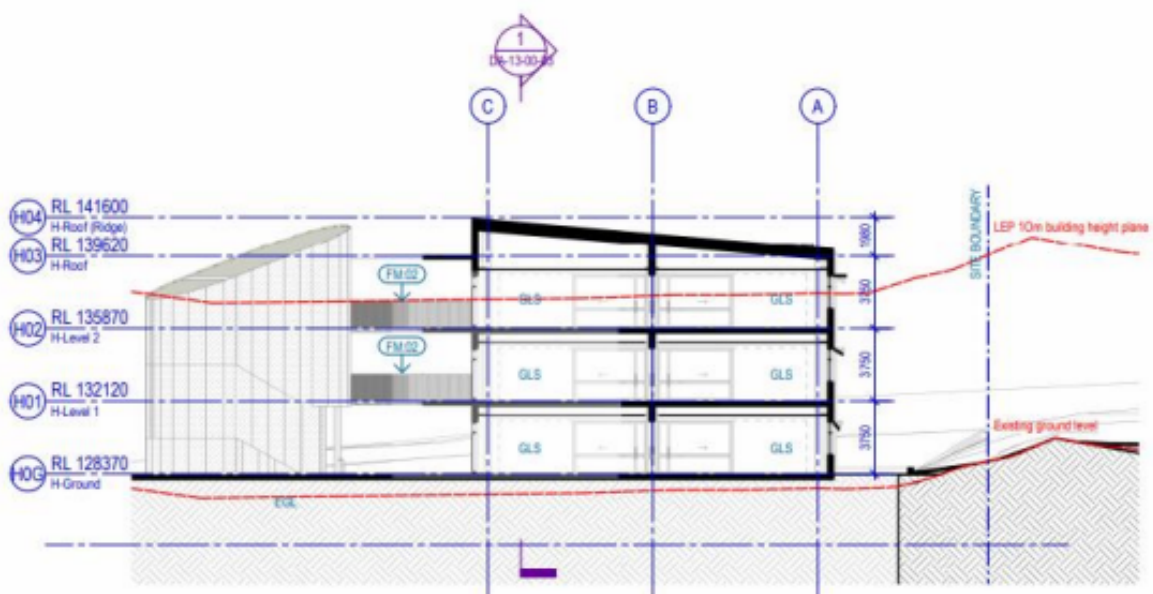
The site's topography falls from north-east to the south-west (falls away from residences along Gilham Street), with a fall of approximately 6m from most northeast extent to the most southwestern extent of the new building. Accordingly, the falling topography exacerbates the extent of the height protrusion. This is visually represented in the height plane diagrams at **Figure 2** to **Figure 5**.

Given the above, the height non-compliance ranges from 10m up to a maximum height of 14.8m. Evidently, the extent of the non-compliance as a proportion of the overall building height is minor, with the maximum non-compliance of 48% occurring only in a small portion of the building envelope due to the topography.

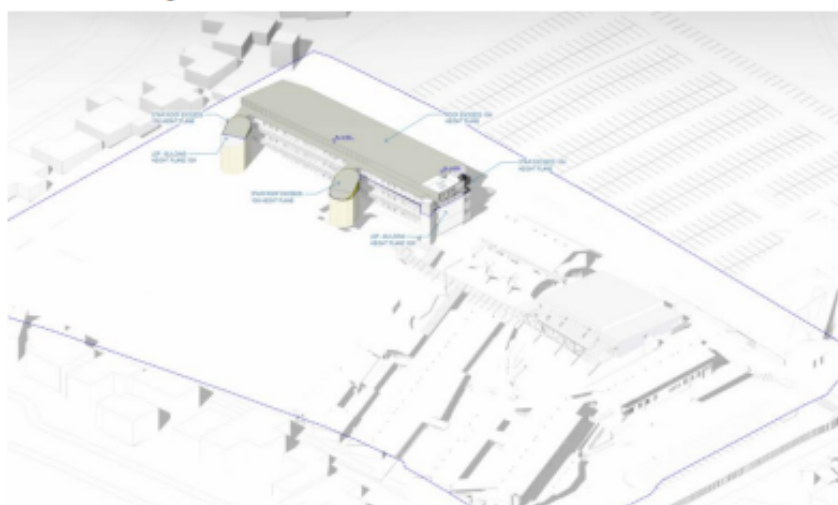


**Figure 2** Building height plan diagram – north-south axis section of new classroom building  
Source: Woods Bagot 2022

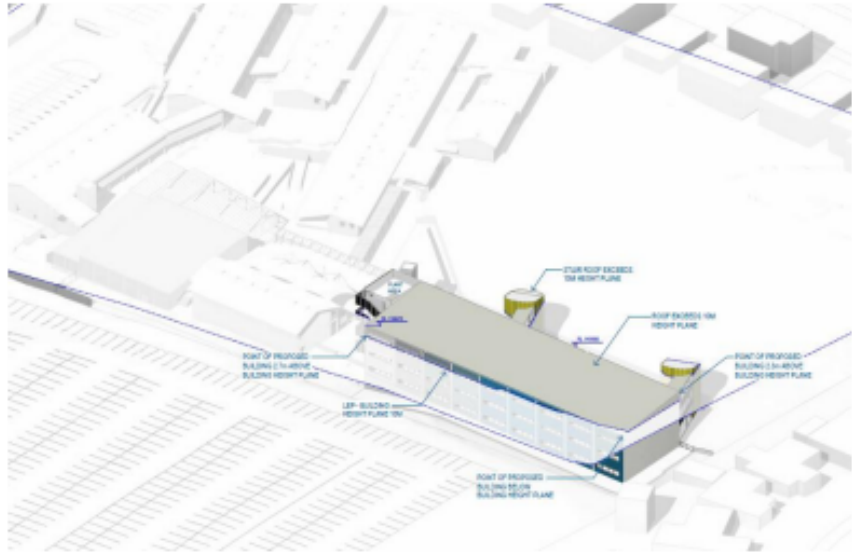




**Figure 3 Building height plan diagram – east-west axis section of new classroom building**  
Source: Woods Bagot 2022



**Figure 4** Height Plane Diagram (looking at the site from the south-west)  
Source: Woods Bagot



**Figure 5 Height Plane Diagram (looking at the site from the north-east)**  
Source: Woods Bagot

## 5. Assessment

### 5.1 Clause 4.6 (3) (a) Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

The commonly practiced way of establishing that compliance with a standard is unreasonable or unnecessary is to establish that the objectives of the relevant development standard are met, even though the standard is not to be complied with. In the cases *Wehbe v Pittwater Council* [2007] NSWLEC 827 and *Williams v Kuring-gai Municipal Council* [2017] NSWLEC 1098, a number of approaches can be used. *Wehbe Test 1*, as described in *Williams*, is relevant to the proposed variation to the HOB development standard:

- Wehbe Test 1: The objectives of the standard are achieved notwithstanding non-compliance with the standard.

It is noted that in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, it was determined that a development does not have to demonstrate that the non-compliant aspect should have a neutral or beneficial effect, relative to a compliant development.

#### Wehbe Test 1 – Objectives of the Height Of Buildings standard

An assessment against the objectives of the HOB development standard is provided below:

#### **1) The objectives of this clause are as follows:**

##### **(a) To ensure the height of buildings is compatible with that of adjoining development and the overall streetscape**

The design has considered the condition of the site and its context to ensure that the development can exist in harmony with its surroundings.

The proposed classroom building is in the north-east portion of the site. The northern boundary is typified by single storey residential dwellings while the eastern boundary is shared with a large car park that services the Castle Towers Shopping Centre further east of this car park. Accordingly, the proposed building does not share any interface with the public domain.

For this application, since adjoining housing is earmarked for medium and high-density residential housing, compatibility with the future character is more appropriate than with the existing.

The site and surrounds are in the Castle Hill North Precinct. The desired character for future development is provided by *Castle Hill North Precinct Development Control Plan* (DCP). It provides the vision, development principles, key elements for the Precinct and relevant specific objectives which are to be achieved. Notably, it features a structure plan that indicates the desired storeys. Refer to **Figure 6**.





**Figure 6 Castle Hill North Structure Plan**  
Source: Part D – Section 20 – The Hills DCP

Single storey detached dwellings on the northern edge of the school site is planned for 3 storey terrace houses. Furthermore, sites to the north-east are proposed for 4-8 storey high density residential. The existing car park to the east of the site is also planned future 4 to 12 storey high density residential housing with a 4-5m pedestrian connection a pedestrian connection that acts as a buffer between the school and any new housing planned for the car park site.

Given the above, even with the proposed height variation, the three-storey classroom building will be below the anticipated heights of future residential to the north and east. The building setbacks also provides for building separation that is common for medium and high-density residential types. The height of the proposal is therefore compatible with that of adjoining development.

**(b) To minimise the impact of overshadowing, visual impact and loss of privacy on adjoining properties and open space areas**

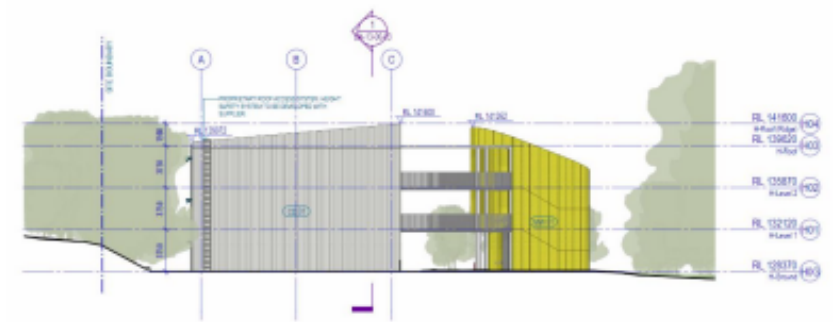
Notwithstanding the height variation, the proposed development still minimises the impact of overshadowing, visual impact, and loss of privacy on adjoining occupiers. This analysis is articulated in discussion below.

### Loss of privacy

There are no privacy issues to existing dwellings to the north as there are no openings on the north elevation - refer to **Figure 7**. Windows are placed mainly on the eastern and western orientation of the building.

Regarding the car park to the east, the minimum setback distance of 8 metres provided by the new school building accords with the minimum separation distances expected by the Apartment Design Guide (ADG) for buildings up to four storeys. Therefore, the privacy impacts presented by windows on the eastern elevation are typical within a high-density residential environment.

Moreover, when one accounts for the 4-5m buffer that will be provided between the school site and any future 4-12 storey development on the car park site, an even greater minimum building separation of 12-13 metres can be achieved. The distance that can be achieved between the new building and any future development is greatly more than the minimums in the ADG required to achieve a good privacy outcome.



**Figure 7 Northern elevation of the new classroom building**  
Source: Woods Bagot, 2022

#### Overshadowing

Due to the orientation of the sun, the proposed development makes no difference to overshadowing currently experienced by existing dwellings to the north.

However, it is noted that the proposal will result in minor overshadowing of a small portion of the existing car park to the east. Notwithstanding this, the impact is considered acceptable and is unlikely to prejudice the redevelopment of the car park. The new classroom building is setback 8 metres from the eastern boundary.

This distance accords with the minimum separation distances expected by the ADG for buildings up to four storeys.

Furthermore, it should be noted that a 4-5 metre walkway is expected to run alongside this boundary on the car park site. Therefore, there is potential to achieve an even greater building separation of 12-13 metres between the proposed new building and any future 4-12 storey development on the car park site.

In this context, the impact due to the proposal is no greater than what would be ordinarily expected in a high-density environment and it therefore acceptable.

#### Visual impact

In terms of visual impact, there is limited impact as the proposal is not located within a streetscape. The only impacts are to and from adjoining development. However, regarding the structure plan for the Castle Hill North Precinct, it is anticipated that the adjoining development will develop for medium and high-density residential development ranging from 3 to 12 storeys. Therefore, even with a slight height exceedance, it is compatible with its surrounds.

### **5.2 Clause 4.6 (3) (b) Are there sufficient environmental planning grounds to justify contravening the development standard?**

There are sufficient environmental planning grounds to justify contravening the development standard because the non-compliance results in negligible adverse impacts, is a better planning outcome and is consistent with the HOB objectives (above) and zone objectives (refer to Section 4.3 below).

However, in the case *Four2Five vs Ashfield Council* [2015] NSW LEC 90, Pain J held that a Clause 4.6 must also demonstrate that there are environmental planning grounds to justify contravening the development standard, in addition to meeting the objectives of the standard and zone.

Moreover, in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, the Court stated that the phrase 'environmental planning grounds' is not defined but would refer grounds that relate to the subject matter, scope and purpose of the EP&A Act, including the objects in section 1.3 of the Act.

Noting the achievement of the height objectives (above) and zone objectives (refer to **Section 5.3** below), it is considered that there are sufficient environmental planning

grounds to justify contravening the development standard because the height non-compliance results in negligible adverse impacts and is a better urban design and planning outcome, as detailed below:

- *Topography increases the extent of the height non-compliance.*

The site's topography falls from north-east to the south-west (falls away from residences along Gilham Street), with a fall of approximately 6m from the most northeast extent to the most southwestern extent of the new building. Accordingly, the falling topography exacerbates the extent of the height protrusion.

Notwithstanding, siting the proposed development elsewhere within the site would not achieve a sound outcome, due to limited space availability, the existing layout of the GLS's and play areas and adverse impacts to adjoining residential properties. Therefore, the siting of the proposed building is the most appropriate on the site.

- *The proposal's appearance is in harmony with the desired character adjoining development (Section 1.3(g) of the EP&A Act 1979).*

The design has considered the condition of the site and its context to ensure that the development can exist in harmony with its surroundings. For this application, since adjoining housing is earmarked for medium and high-density residential housing, compatibility with the future character is more appropriate than with the existing.

The desired character for future development is provided by *Castle Hill North Precinct DCP*. The proposal has been designed with regard to the future built forms that will characterise the northern and eastern edges of the school site, where the new classroom building will be located.

Single storey detached dwellings on the northern edge of the school site is planned for 3 storey terrace houses. Sites to the north-east are proposed for 4-8 storey high density residential. The existing car park to the east of the site is also planned future 4 to 12 storey high density residential housing.

In this regard, the proposal is within the range of expected storeys, setbacks and heights that will characterise the locality.

- *The proposal's physical impacts on surrounding development are acceptable (Section 1.3(g) of the EP&A Act 1979).*

There are no privacy issues to existing dwellings to the north as there are no openings on the northern elevation. Overshadowing issues are similarly non-existent given the location of the new building and orientation of the sun. Regarding the car park to the east, as the new building achieves a setback of 8 metres from the eastern property boundary – slightly greater than the minimum setbacks required by ADG between four storey developments in a high-density environment - this will be sufficient to achieve an acceptable outcome in terms of shadowing and privacy between the school building and future residential housing on the car park site. An analysis of the overshadowing, visual and privacy impacts of the proposal has revealed that it does not detrimentally impact or prejudice the ability of adjoining development to redevelop in accordance with the *Castle Hill North DCP*.

- *The proposal will facilitate the ecologically sustainable development of the site (Section 1.3(b) of the EP&A Act).*

The proposed works will implement a range of sustainability measures, including more efficient building plant and services, a focus on natural ventilation and lighting where possible (which will be supplemented by solar panels), as well as harvesting of rainwater and other water sensitive urban design measures.

- *The proposed development will promote the social and economic welfare of the community (Section 1.3(c) of the EP&A Act).*

The proposal will deliver a significant public benefit as it seeks to replace demountable buildings with a new and modern permanent classroom building to meet the local demand for educational facilities. It will result in greater access to



quality teaching facilities and result in improved amenity and educational outcomes for students. There would indeed be a negative public benefit from upholding the height limit as it means that the upgrade would not be able to proceed or proceed in a severely compromised form.

The proposal will provide for a future development which is responsive to site and context and maintains a high level of amenity within the site and to surrounds. It represents the orderly and economic use of land and good design and amenity of the built environment, as identified by Section 1.3 of the Environmental Planning and Assessment (EP&A) Act 1979.

**5.3 Clause 4.6 (4)(a)(ii) Is the proposal in the public interest because it is consistent with the objectives of the particular standard and the objectives of the development within the zone in which the development is proposed to be carried out?**

The proposed development, incorporating the HOB variation, will be in the public interest as it will remain consistent with both the objectives of Clause 4.3 HOB development standard and the R3 Medium Density Residential zone objectives.

The objectives of Clause 4.3 Height of Buildings

As noted in **Section 4.1** of this written request, the development achieves the objectives of the HOB standard under THLEP 2019, notwithstanding the non-compliance. Therefore, it is consistent with the HOB objectives.

The objectives of the R3 Medium Density Residential zone

The site is located within the R3 Medium Density Residential zone of the THLEP 2019.

*1 Objectives of zone*

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To encourage medium density residential development in locations that are close to population centres and public transport routes.

The proposal is not inconsistent with the zone objectives because;

- The proposal seeks to replace all the existing demountables on site with permanent learning spaces and to provide modern learning environments and core facilities. This will improve the functionality of the school and support improved educational outcomes for local students. In this regard, it provides for improved facilities and services to meet the day-to-day educational needs of residents; and
- The proposal results in a development that is compatible with its surrounds when considered in the context of the desired character of the locality. Furthermore, the additional height is acceptable as it does not result in any additional impacts that would have the effect of prejudicing future forms of residential development from occurring on adjoining sites. These sites can still be redeveloped to provide a variety of housing types within a medium and high-density residential environment.

## 6. Secretary's concurrence

Clause 4.6(4)(b) stipulates that consent must not be granted for development that contravenes a development standard unless the concurrence of the Secretary has been obtained.

The matters to be considered by the Secretary in deciding whether to grant concurrence are provided by Clause 4.6(5) and addressed below.

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

Contravention of the maximum HOB development standard under Clause 4.3 of LEP 2019 does not raise any matter of significance for State or regional environmental planning.

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

As outlined in Section 4 of this request, the proposal is in the public interest. It results in an improved outcome for the school via the provision of new permanent facilities that maintains consistency with the objectives of the HOB development standard and the R3 Medium Density Residential Zone of THLEP 2019.

There would indeed be a negative public benefit from upholding the standard as it means that the upgrade would not be able to proceed or proceed in a severely compromised form, due to significant site constraints that limit the ability to locate the development elsewhere on the site.

It is therefore concluded that there is no public benefit in maintaining the HOB development standard under the circumstances.

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

There are no other matters needing to be considered.

## 7. Conclusion

This written request under Clause 4.6 of the THLEP 2019 seeks to vary the permitted maximum HOB standard of 14.8m applicable to the site. This comprises a 48% variation to the standard. The proposal will provide a better planning outcome with no significant adverse environmental impacts.

The written request demonstrates:

- the proposed development is consistent with and achieves the objectives of the HOB control under Clause 4.3 of the THLEP 2019 (Wehbe Test 1);
- there are sufficient environmental planning grounds to justify the contravention of the HOB development standard;
- provides for a development that is in the public interest, as it results in an improved outcome for the school via the provision of new permanent facilities that is consistent with both the objectives of the HOB development standard and the objectives of the R3 Medium Density Residential zone;
- the concurrence of the Secretary can be assumed, as per Planning Circular PS 18-003; and
- the proposal is consistent with Section 1.3 of the EP&A Act 1979 and will promote and coordinate the orderly and economic use and development of land.