

SUTHERLAND SHIRE COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSSH-74
DA Number	21/0354
LGA	Sutherland Shire Council
Proposed Development	Construction of a multi-purpose hall
Street Address	2-6 Porter Road, ENGADINE NSW 2233
Applicant/Owner	Anthony Manning / Minister for Education and Training
Date of DA lodgement	22 September 2021
Number of Submissions	None
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Schedule 7 (4) of State Environmental Planning Policy (State and Regional Development) 2011, Development carried out by or on behalf of the Crown (within the meaning of Division 4.6 of the Act) that has a capital investment value of more than \$5 million.
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy (State and Regional Development) 2011</i> • <i>State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017</i> • <i>State Environmental Planning Policy No. 55 – Remediation of Land.</i> • <i>Draft State Environmental Planning Policy (Remediation of Land) (draft Remediation of Land SEPP)</i> • <i>State Environmental Planning Policy No.64 – Advertising & Signage</i> • <i>Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment</i> • <i>Draft State Environmental Planning Policy (Environment) (draft Environment SEPP)</i> • <i>Biodiversity Conservation Act 2016</i> • <i>Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015).</i> • <i>Sutherland Shire Development Control Plan 2015 (SSDCP 2015)</i>
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Architectural plans • Conditions of consent • Pre-application Discussion letter • Comments Rural Fire Service • Comments Design Review Forum • Cl4.6 written request – Building Height

Report prepared by	Evan Phillips
Report date	August 2021

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**

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

Clause 4.6 Exceptions to development standards

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

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **Not**

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions **Applicable**

Conditions

Have draft conditions been provided to the applicant for comment? **Yes**

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

REPORT SUMMARY

REASON FOR REFERRAL TO SSPP

The application is undertaken on behalf of School Infrastructure NSW, which exists under the NSW Department of Education and Training. Section 4.32 and 4.33 of the Environmental Planning and Assessment Act, 1979 (EP&A Act) defines a Crown Development Application as "a development made by or on behalf of the crown" and the application is therefore a Crown Development Application.

The development has a capital investment value (CIV) of \$7,428,656.00. In accordance with the EP&A Act and Schedule 7 (4) of State Environmental Planning Policy (State and Regional Development) 2011, the proposal is identified as "regionally significant development" and the SSPP is the consent authority (i.e. Development carried out by or on behalf of the Crown (within the meaning of Division 4.6 of the Act) that has a capital investment value of more than \$5 million).

PROPOSAL

The application is for the construction of a multi-purpose hall.

THE SITE

The site is located at 2-6 Porter Road, Engadine on the southern side of the road reserve and is also bound by Anzac Avenue, Birok Avenue and Princes Highway. The site accommodates Engadine High School.

ASSESSMENT OFFICER'S RECOMMENDATION

1.0 THAT:

- 1.1 Pursuant to the provisions of Clause 4.6 of Sutherland Shire Local Environmental Plan 2015, the written submission in relation to the variation to the maximum 12m building height development standard specified within Clause 4.3 of Sutherland Shire Local Environmental Plan 2015 satisfies the relevant provisions of Clause 4.6 and is therefore supported. It is recommended that the provisions of Clause 4.6 be invoked and that building height development standard be varied to 13.56m (13%variation), in respect to this application.
- 1.2 That Development Application No. DA21/0354 for Construction of a multi-purpose hall at Lot 969 DP 752064, Lot 970 DP 752064 2-6 Porter Road, Engadine be approved, subject to the conditions contained in Appendix A of the report.

ASSESSMENT OFFICER'S COMMENTARY

2.0 DESCRIPTION OF PROPOSAL

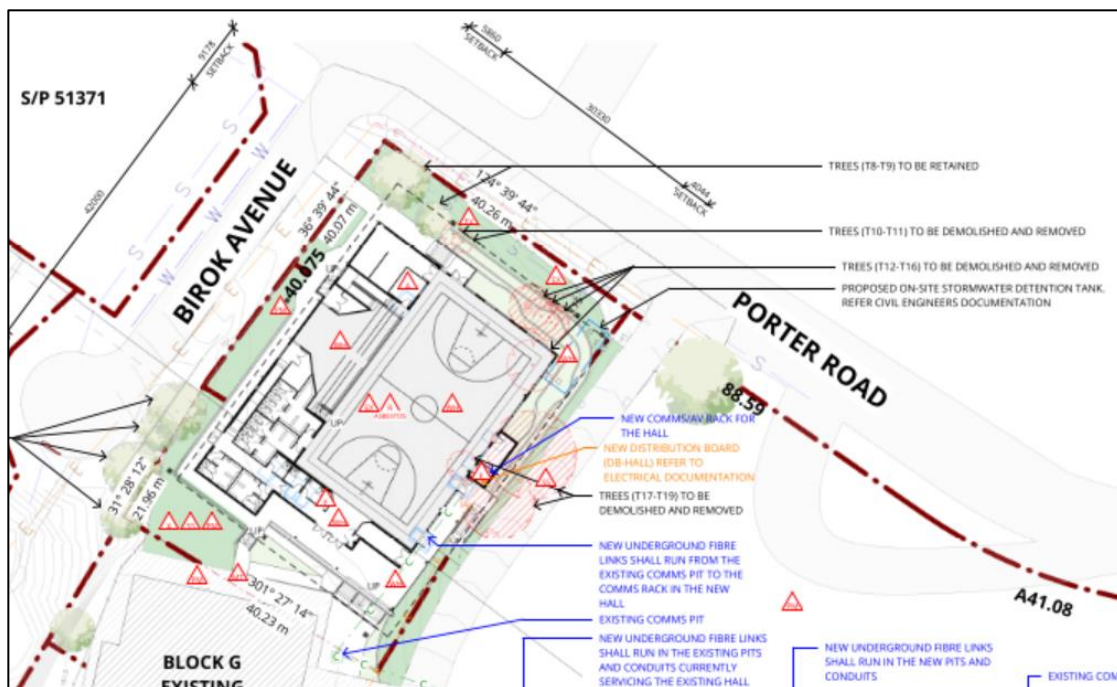
The proposed multi-purpose hall is located at the north western portion of the site adjoining Porter Road to the north and Birok Street to the west. The building is a steel framed rectangular design with a metal roof and has a total Gross Floor Area of approximately 1,150m² and maximum height of 13.56m. The multi-purpose hall comprises a stage, equipment stores, Male and Female amenities and change rooms (including unisex accessible toilets and shower), first aid room, staff amenities and control / comms rooms.

The proposed site works include the removal of ten (10) trees. A new landscaped entry forecourt is provided to the south of the hall with ramp and stairs. Landscaped terraces are proposed to the north and east and the landscape design includes 18 new trees. The new stormwater drainage system, including a 40m³ on-site detention (OSD) tank, is located to the north-east of the hall.

A wall-mounted sign is proposed to the eastern elevation of the proposed hall. The sign comprises 600mm high individually mounted letters identifying the school name "Engadine High School". The signage is not proposed to be illuminated.

The application does not propose any increase in student population or modification to the existing operational parameters of the School.

A site plan is provided below.



3.0 SITE DESCRIPTION AND LOCALITY

The site is located at 2-6 Porter Road, Engadine on the southern side of the road reserve and is also bound by Anzac Avenue, Birok Avenue and Princes Highway. The site accommodates Engadine High School which is a public co-educational high school accommodating for students in Years 7 to 12.

The land is irregular in shape with boundary dimensions of approximately 396m (north-east to Porter Road), 138m (south-east to Princes Highway), 238m (south-west to Anzac Avenue) and 228m (north-west to Birok Avenue). The total site area is approximately 6.732 hectares. Generally, the site falls from Princes Highway and Anzac Avenue to the north-west. The part of the site on which the hall is proposed in the north west corner on a relatively clear area adjacent to the existing school hall. This area is relatively flat, with a steep embankment located to the rear of the existing hall and to the Porter Road street frontage.

The site accommodates numerous educational buildings along with associated external open spaces / sport fields for student use. The buildings are mainly located centrally to the site, with driveway access to parking areas provided from Porter Road. There are substantial tracts of natural vegetation mainly provided along the site peripheries, with a large concentration within the south eastern corner and along the south western boundary. The land is identified as both bushfire prone and subject to flood risk.

The streetscape in vicinity to the site is characterised by a mix of low density residential detached single dwellings and multi dwelling development set within an urban bushland setting.



Figure 1: Site Location



Figure 2: Location of proposed development (north western site portion)

4.0 BACKGROUND

A history of the development proposal is as follows:

- A pre-application discussion (PAD) was held on 24 February 2021) regarding this development. As a result of this a formal letter of response was issued by Council dated 17 March 2021. A full copy of the advice provided to the Applicant is contained within Appendix “B” of this report and the main points contained in this letter are as follows:
 - Permissibility and applicable Environmental Planning Instruments.
 - Site planning and urban design considerations including design parameters and siting of the development within the existing school grounds and street setbacks.
 - Impacts to the natural environment including biodiversity and native vegetation.
 - Other submission requirements including landscape design, planning for bushfire protection and flood planning.
 - Determination pathway
 - Development contributions requirements.
- The current application was submitted on 18 May 2021.
- The application was placed on exhibition, with the last date for public submissions being 14 June 2021.
- Council officers requested that the following matters be addressed on 9 July 2021.
 - Design change and response to the comments of the DRF.
 - Submission of a streetscape analysis to inform the siting of the building along with details

- of hydrant infrastructure to determine impacts to the streetscape.
- Submission of an overland flood study in support of the submitted flood study.
- The applicant submitted amended plans and additional information on 16 July 2021 addressing the following:
 - Design Changes and written response to the DRF recommendations.
 - Street setback analysis in support of the proposed siting of the building.
 - Clarification to hydrant infrastructure requirements.
 - Overland flow depth analysis in response to flood concerns.
- The applicant submitted amended plans and additional information on 12 August 2021 addressing the following:
 - Response to the Panel Briefing comments including changes to material finishes
 - Revised landscape plan in response to planting mix concerns and requirements of the RFS.

5.0 ADEQUACY OF APPLICANT'S SUBMISSION

In relation to the Statement of Environmental Effects, plans and other documentation submitted with the application or after a request from Council, the applicant has provided adequate information to Council to enable an assessment of this application, including a written request to vary the building height development standard under Clause 4.6 of Sutherland Shire Local Environmental Plan 2015.

6.0 PUBLIC PARTICIPATION

The application was advertised and publicly exhibited until 14 June 2021 in accordance with the provisions of Chapter 42 of Sutherland Shire Development Control Plan 2015 (SSDCP 2015) and administrative requirements of the Sydney South Planning Panel.

Council notified 70 adjoining or affected owners of the proposal and no submissions were received.

Revised Plans

The applicant lodged revised plans on 16 July 2021 and 12 August 2021. These plans were not publicly exhibited in the same way as the original application as, in the opinion of Council, the changes being sought did not intensify or change the external impact of the development to the extent that neighbours ought to be given the opportunity to comment.

7.0 STATUTORY CONSIDERATIONS

The provisions of the following environmental planning instruments and development control plans are of particular relevance to the assessment of the application:

- *State Environmental Planning Policy (State and Regional Development) 2011*
- *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*

- *State Environmental Planning Policy No. 55 – Remediation of Land.*
- *Draft State Environmental Planning Policy (Remediation of Land) (draft Remediation of Land SEPP)*
- *State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP).*
- *State Environmental Planning Policy No.64 – Advertising & Signage*
- *Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment.*
- *Draft State Environmental Planning Policy (Environment) (draft Environment SEPP)*
- *Biodiversity Conservation Act 2016*
- *Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015).*
- *Sutherland Shire Development Control Plan 2015 (SSDCP 2015)*

The property is within Zone SP2 – Educational Establishment under the provisions of Sutherland Shire Local Environmental Plan 2015 (SSLEP2015). Further, State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (EESEPP) indicates that the development is within a “prescribed zone” and the proposed development is permitted with development consent.

8.0 COMPLIANCE

State Environmental Planning Policy (State and Regional Development) 2011

State Environmental Planning Policy (State and Regional Development) 2011 identifies State and Regionally Significant development in NSW. Schedule 7 (4) of the SEPP identifies this application as regionally significant development.

State Environmental Planning Policy No. 55 (Remediation of Land) (SEPP 55)

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) requires Council to consider whether the land subject to the development proposal is contaminated; and if the site is contaminated, Council must be satisfied that the site is suitable or can be made suitable (i.e. following remediation) for the proposed land use.

The applicant has submitted Soil Contamination Investigation report. The proposal has been reviewed by Council’s Environmental Scientist and is considered to be acceptable subject to the imposition of conditions of development consent, primarily in relation to disposal of site soils and unexpected finds. Further discussion is contained in the Referral section of this report. In conclusion, there is certainty that the site can be made suitable for the proposed land use in accordance with requirements of SEPP 55.

Draft State Environmental Planning Policy (Remediation of Land) (draft Remediation of Land SEPP)

The draft Remediation of Land SEPP seeks to repeal and replace SEPP55 in relation to the management and approval pathways of contaminated land. The draft SEPP was exhibited between January and April 2018. New provisions will be added which will:

- require all remediation work carried out without the need for development consent to be reviewed and certified by a certified contaminated land consultant,
- categorise remediation work based on the scale, risk and complexity of the work, and
- require environmental management plans relating to post remediation, maintenance and management of on-site remediation measures to be provided to Council.

The site and proposal have been assessed against the provisions of SEPP 55 and likelihood of contamination is low. The proposal is satisfactory with regard for the provisions of draft *Remediation of Land SEPP*.

Greater Metropolitan Regional Environmental Plan No. 2- Georges River Catchment

Greater Metropolitan Regional Environmental Plan No. 2 (GMREP2) includes a number of aims and objectives for the environment and water quality within the catchment. Appropriate stormwater management and water quality measures are proposed and there is likely to be minimal adverse impacts on water quality. Council is of the view that, with the implementation of the recommended conditions of consent, the proposal would be consistent with the aims and objectives of GMREP2.

Draft State Environmental Planning Policy (Environment) (draft Environment SEPP)

The draft Environment SEPP seeks to simplify the NSW planning system and reduce complexity without reducing the rigour of considering matters of State and regional significance. The draft SEPP was exhibited between October 2017 and January 2018. The SEPP effectively consolidates several SEPPs including SEPP19, SEPP (Sydney Drinking Water Catchment), and GMREP2 and remove duplicate considerations across EPI's. Relevant considerations have been taken into account against the in-force EPIs in this report.

Biodiversity Conservation Act 2016

The Biodiversity Conservation Act 2016 and the Biodiversity Conservation Regulation 2017 outlines the framework for assessment and approval of biodiversity impacts for development that requires consent under the Environmental Planning and Assessment Act 1979. The assessment of the development has revealed that the Biodiversity Offset Scheme (BOS) threshold is not triggered and biodiversity matters have been appropriately assessed via Council's LEP and DCP objectives and controls. Further discussion is contained within Environmental Science referral section of this report.

State Environmental Planning Policy (Infrastructure) 2007

Development with frontage to a classified road (clause 101)

Division 17, Subdivision 2 of the Infrastructure SEPP relates to land in or adjacent to road corridors or road reserves. The site has a frontage to the Princes Highway to the east which is identified as a classified road on Council's road hierarchy maps.

Before granting consent for development on land which has a frontage to a classified road, the consent

authority must be satisfied that certain factors have been considered. These factors include safety; efficiency of the road network; design, emission of smoke or dust from the development; nature, volume and frequency of vehicles; and the impact of traffic noise and emissions.

The proposed development does not entail any vehicular access from Princes Highway and therefore the proposed development will not impact on the safety, efficiency and ongoing operation of the classified road. Further, the proposal does not seek to increase staff or student population and therefore will not impact on the surrounding road network including the Princes Highway in terms of traffic generation.

Impact of road noise or vibration (Clause 102) -

Division 17, Subdivision 2 of the Infrastructure SEPP also relates to development that may be impacted by road noise or vibration. This application is for an educational establishment / and the site is adjacent to the Princes highway and is also identified on Council's Road and Rail Noise Buffer Map (traffic volume exceeds 20,000 vehicles). The proposed multi-purpose hall is located approximately 300m from Princes Highway and will be used for assemblies, indoor sports and performances. Therefore, it is considered that the proposed multi-purpose hall is unlikely to be adversely impacted by road traffic noise.

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

The primary aim of this EESPP is to facilitate the effective delivery of educational establishments and early education and care facilities across the State. Part 4 (Schools) of the EESPP contains specific development controls and considerations for the proposed development. Before determining a development application the consent authority must take into consideration the design quality of the development when evaluated in accordance with the design quality principles set out in Schedule 4, and whether the development enables the use of school facilities (including recreational facilities) to be shared with the community.

Sutherland Shire Council engaged its Design Review Forum (DRF) to guide the refinement of the development to ensure appropriate design quality is achieved in accordance with the EESPP. The DRF comments are included in **Appendix "C"** to this report. Whilst the site is largely a secured site operable during school hours, broadly the development could be considered an enabler of use to be shared with the community.

An assessment of the proposal having regard to the design quality principles set out in Schedule 4 of the EESPP is set out below:

Principle	
1 - Context, built form and landscape	The building, albeit of a greater height in part than the permitted 12m height under Council's LEP (discussed in the assessment below) has been

	designed to respond to and enhance the positive qualities of the streetscape and landscape setting.
2 - Sustainable, efficient and durable	The multi-purpose hall is designed to be durable and is deemed appropriate in terms of its consumption of energy, water and natural resources.
3 - Accessible and inclusive	The building provides for good wayfinding and accessible and inclusive to people with differing needs and capabilities.
4 – Health and Safety	Health, safety and security within the boundaries of the school and surrounding public domain has been considered, and subject to the imposition of conditions of consent is considered to be acceptable.
5 - Amenity	The building provides for engaging spaces that are accessible for a wide range of educational, informal and community activities. The development generally takes advantage to its aspect. Impacts to adjoining residents has been adequately addressed and is acceptable subject to the imposition of conditions of development consent.
6 – Whole of life, flexible and adaptive	The building accommodates facilities to deliver high environmental performance and if the need arises, the usefulness of the multi-purpose hall is maximized in the event of changing or competing demands.
7 - Aesthetics	The built form including finishes and accompanying landscape strategy is aesthetically pleasing and achieves an identity, suitable for the nature of the context and land use. The proportions and composition of building elements will have a positive impact on the quality and character of a streetscape and neighbourhood.

Note: The application does not propose any increase in student population or modification to the existing operational parameters of the School, and the proposed development is not traffic generating development under Part 7 – Clause 57 of the EESEPP and is not required to be referred to RMS for comment in accordance with Clause 104 of State Environmental Planning Policy (infrastructure) 2007.

State Environmental Planning Policy No. 64 – Advertising & Signage (SEPP64)

The provisions of SEPP64 applies to all signage (including advertising) visible from a public space and includes a number of aims primarily to ensure signage compatibility with desired amenity and visual character of an area, effective communication, and high quality design and finishes. A wall-mounted building identification sign is proposed to the eastern elevation of the proposed hall. The sign comprises 600mm high individually mounted letters identifying the school name "Engadine High School". The signage is not proposed to be illuminated. Consideration of the provisions of SEPP64 has been given and the proposal been assessed against Schedule 1 of SEPP64 'assessment criteria' (refer below) and is considered to generally satisfy the criteria.

Assessment Criteria	Assessment
Character of the area	The signage reflects the zoning of the land and nature of the proposed development and is keeping with the existing and desired future character of the area / locality.
Special areas	The signage is not anticipated to detract from the amenity or visual quality of the land and surrounds.
Views and vistas	The signage is not anticipated to obscure or compromise views or be visually dominant in the skyline.
Streetscape, setting or landscape	The signage generally contributes to the visual interest of the building and is appropriate in scale / proportion so as to not dominate the streetscape or cause visual clutter. A landscape strategy is also proposed forward of the proposed building which enhance the landscape / streetscape setting.
Site and building	Signage is compatible with the scale, proportion and other characteristics of the site or building.
Associated devices	Not applicable
Illumination	Signage integrated into the fabric of the building as an architectural detail and is not illuminated.
Safety	Signage is not anticipated to reduce safety of surrounding roads or pedestrian routes.

Sutherland Shire Local Environmental Plan 2015

The proposal has been assessed for compliance against Sutherland Shire Local Environmental Plan 2015 (SSLEP2015).

Policy	Control	Proposal	Compliance
Cl. 4.3 Building Height	12m	13.56m	No (13% variation) Clause 4.6 submitted – refer to assessment

Other Controls

Clause 35(9) of the ESEPP sets out that the provisions of a DCP have no effect on a school development proposed under Clause 35 (i.e. development with consent). Accordingly, the provisions of Sutherland Shire Development Control Plan 2015 (SSDCP2015) have no effect on the proposal.

Notwithstanding the above, the objectives of the controls relating to design elements (streetscape, building form, building setbacks, landform, landscaping, building layout, solar access, visual and acoustic privacy) have been considered as these controls broadly seek to ensure that any use that is permissible within a zone is developed in a manner that is consistent with the zone objectives and contribute to a harmonious local environment. These matters are largely addressed elsewhere in the report and the proposal is

considered to be largely consistent with the objectives of the DCP. Further, the proposal is generally consistent with the following Chapters of SSDCP2015 which are applicable to the proposal.

- Chapter 35 – Other Uses - Signage
- Chapter 36 – Roads, Vehicular Access, Traffic, Parking and Bicycles
- Chapter 38 – Stormwater and Groundwater Management
- Chapter 39 – Natural Resource Management
- Chapter 40 – Environmental Risk – Contaminated Land Management
- Chapter 41 – Social Impact

9.0 SPECIALIST COMMENTS AND EXTERNAL REFERRALS

The application was referred to the following internal and external specialists for assessment and the following comments were received:

Rural Fire Service (RFS)

The land is identified on Council maps as bushfire prone and the application is referred to Rural Fire Service under 100B of the Rural Fires Act as the school is identified as a 'special fire protection purpose'. The RFS have raised no objection to the proposal and have issued General Terms of Approval. A copy of this response is contained in **Appendix "D"**

Design Review Forum (DRF)

Sutherland Shire Council engages the DRF to guide refinement of applications and to ensure design quality is achieved. Schedule 4 of the ESEPP contains 7 design quality principles which align to this development typology and are directly applicable to the proposal. The application was considered by Council's DRF on 10 June 2021.

A copy of the DRF report and applicants written response is provided at **Appendix "C"**.

Architectural Input

A review of the revised development proposal with respect to architectural merit and urban design quality including the applicant's response to the DRF has been undertaken by Council's Architectural Assessment Officer. A summary of the comments is provided below:

- There have been some considerations of the DRF comments of the original design undertaken, however, they are minimal and as such there are aspects that could have reduced external impact that remain.
- Of some importance is the suggested lowering of the roof over the amenities area as this will be an obvious large part of the building form as seen from Birok Avenue. The lowering was suggested as it seems that there is little benefit of having high ceiling levels and expansive voids

within the roof space. Additionally, as the pitch of this roof is twice as much as the primary hall roof, a mismatch of building parts gives an impression of the design being in two unrelated parts instead of one complete coordinated proposal.

- Consequently, the logic within the written response to the DRF suggestion of a lower roof profile cannot be agreed to be sufficient to not undertake a change in this regard.
- There was no suggestion of additional glazing to be provided to the western elevation by the DRF panel. They were only suggested as highlights to the southern and northern to allow additional natural light into the hall and its stage area. But if this is not pursued then this maybe a lost opportunity to consider an improved internal amenity and a more sustainable development.
- The adoption of the relocated external stairs is a good improvement.

Comment: Further discussion on the urban design merits of the proposed development is contained in the assessment component below.

Landscape Architect

Council's Landscape Architect has undertaken an assessment of the application with respect to landscaping, tree removal and retention, and general site planning. A summary of the comments are provided below:

- The trees within the surveyed area are all planted 'native' specimens with only Tree 17 (identified as Eucalyptus sp. but actually *Corymbia gummifera* – Red Bloodwood) being endemic to this specific location.
- The individual specimens are not significant within themselves but as a group planting provide amenity to both the site and the streetscape. The trees, if retained, would have helped with screening of the façade of the proposed building. Without these trees and due to factors such as the site's existing ground height above the street, the proximity to the front boundary, the physical size of hall structures and the business of the street, the hall will be highly visible and almost intrusive into the streetscape in this location.
- The concept landscape plan provided is basic and will need to complete details and specifications including construction and planting details, tree protection details, maintenance schedule and material finishes.
- The planting palette chosen needs to be revised for the context of the OEH listed Sydney Ironstone Bloodwood Silvertop Ash Forest that is mapped within this site at Engadine.
- The trees chosen are not of comparative scale for the size of the building. The site is located within a Greenweb 'Restoration' zone and the planting specified in the landscape plans are subject to the requirements as set out under the DCP which require 100% endemic tree canopy being provided.

Support for the removal of trees is provided. Conditions of consent have been recommended in relation to

tree removal, protection and replacement along with the landscape design including the following changes to reinstate the locally endemic tree cover of the Greenweb corridor.:

1. The four Cupaniopsis - Tuckeroo trees to be planted on the embankment facing Porter Road are to be replaced with two Corymbia gummifera, one Angophora costata and two Banksia serrata.
2. The four Tristaniopsis - Water Gum on the Birok Avenue side are to be replaced with four Angophora bakeri trees,
3. The four Waterhousia planted along the internal road of the development shall be interplanted with three Banksia serrata trees
4. The low shrub Planting Mix 3 is to be swapped out for species that are representative of the local forest types.
5. To improve coverage and reduce weeds and maintenance, planting densities should achieve a minimum of 4 plants per square metre. Planting beds turf species should be native grass such as *Zoysia macrantha* 'Nara' or Buffalo grass varieties.

Comment: The applicant has provided amended plans providing changes to the Planting Mix 3 and turf species generally in accordance with the Landscape Architects recommendations however the canopy trees are inconsistent with Council's Native Plant Selector specific to the property address.

The trees depicted in the landscape plan are identified as being on SINSW's tree list as suitable for educational establishments. Concern has been raised regarding the recommended gum trees (Angophora and Corymbia) due to on-going maintenance and limb drop and subsequently have not been incorporated into the revised landscape design. The GTA's issued by the Rural Fire Service are also noted in relation to the Asset Protection and Landscaping requirements, which the current landscape design is consistent with, particularly in relation to interlocking tree canopy.

The application of the tree replacement ratio of 8:1 has also been recommended by Council's Landscape Architect in line with Council's adopted Policy (80 tree replacement to offset the 10 approved for removal). The applicant has however expressed concern and seeks an exemption from this requirement. Following further review, the extent of compensatory planting is reduced as the development has been designed to maintain existing trees, provides tree planting to complement the development scheme, and retains substantial vegetation elsewhere within the site sufficient to serve the intent of the Policy and to maintain a positive contribution to biodiversity and the local landscape character.

Environmental Scientist

The application was referred to Council's Environmental Scientist for assessment and no objections to the proposed development were raised subject to the imposition of suitable conditions of development consent. A summary of the comments is provided below:

Ecological Assessment

The existing vegetation within the development zone is mapped by the NSW OEH in Councils GIS system as primarily Urban/Exotic/Native. This includes an area of approximately 0.04ha planted native trees and shrubs surrounding the boundary of the school site. The site is also located in a Greenweb “restoration’ area under Council’s local policies.

The majority of the area to be utilised for the development is currently turfed. The arboriculture report prepared for this site concludes that 19 trees were present on site, with 10 required to be removed to facilitate the development. The proposed area of clearing does not exceed the threshold for the Biodiversity Offset Scheme (BOS) and it is estimated the removal of vegetation to be approx. 0.04 ha, which below the threshold trigger of 0.25ha for the relevant minimum lot site.

The school property is **not** mapped on the Biodiversity Values Map and the proposed is not likely to pose a significant impact on any threatened species or communities as determined by the Test of Significance undertaken by the Ecologist. A Biodiversity Development Assessment Report is not required as the Biodiversity Offset Scheme (BOS) has not been triggered.

The application recommends several mitigation measures to avoid any indirect impacts on flora and fauna during the works. Many of these are included on standard construction management requirements, but some additional measures to protect fauna have been recommended in additional conditions of consent.

Potential Soil Contamination

The applicant has submitted a soil contamination assessment (SMEC, 2021) to assess the suitability of the site for its intended use as a multipurpose hall for high school students. Sampling was undertaken and laboratory analysis undertaken which did not identify exceedances above the adopted assessment criteria in the samples tested.

Based on the results of this assessment and in accordance with the guidance in SEPP55, the submission considers that the site can be made suitable for the proposed development subject to conditions of consent including unexpected finds protocol and waste classification of soils requiring disposal.

Environmental Health

The application was referred to Council’s Environmental Health Unit who provided comments in relation to building design and neighbourhood amenity (including operational noise and construction activities). No objections to the development proposal have been raised subject to suitable conditions of development consent including compliance with the submitted acoustic report.

Engineering (Flood Planning)

The land is identified as flood affected under the 2004 Initial Subjective Assessment of Major Flooding and there is a flood risk at the subject site. Council’s Engineers has reviewed the applicant’s Flood Study and

additional information submitted regarding flooding behaviour at the subject site including a stormwater overland flow path depth analysis in order to establish the flood levels for the 1% Annual Exceedance Probability (AEP) storm event and consequently addressing the flood planning requirements of Chapter 40 of the SSCDCP 2015.

The submission is satisfactory and the report has adequately defined the catchment areas surrounding the subject site and determined the contributing catchment to the subject site. The methodology used and assumptions made are considered acceptable and should form part of the consent. The report has addressed the flooding behaviour during the 1% AEP storm event and the FFL of the proposed hall is to be greater than 147.17m AHD. The proposed hall at FFL 150.20m AHD is considered acceptable and complying.

It is unlikely that the proposed development will result in any measurable offsite flood impacts and, the proposed development is supportable with regards to flooding subject to suitable conditions of development consent.

Engineering (Assessment Team)

Council's Engineer has undertaken an assessment of the application with respect to stormwater disposal, and site management (including excavation). Generally, no objections have been raised in the revised development scheme subject to the imposition of conditions of development consent.

Building Surveyor

Council's Building Surveyor has reviewed the proposed development with respect to compliance with relevant construction codes and access standards. The design as supplied generally appears capable of compliance with the Building code of Australia. The applicant has submitted additional information and advice from a fire consultant stating that a hydrant booster is not required. Therefore, a FRNSW service vehicle hardstand is not required. There are no specific conditions of consent to be applied in respect to the new works as proposed as under Clause 6.28(2) of the EP&A Act prior to commencing the building work the Crown must certify that the work complies with the BCA.

10.0 ASSESSMENT

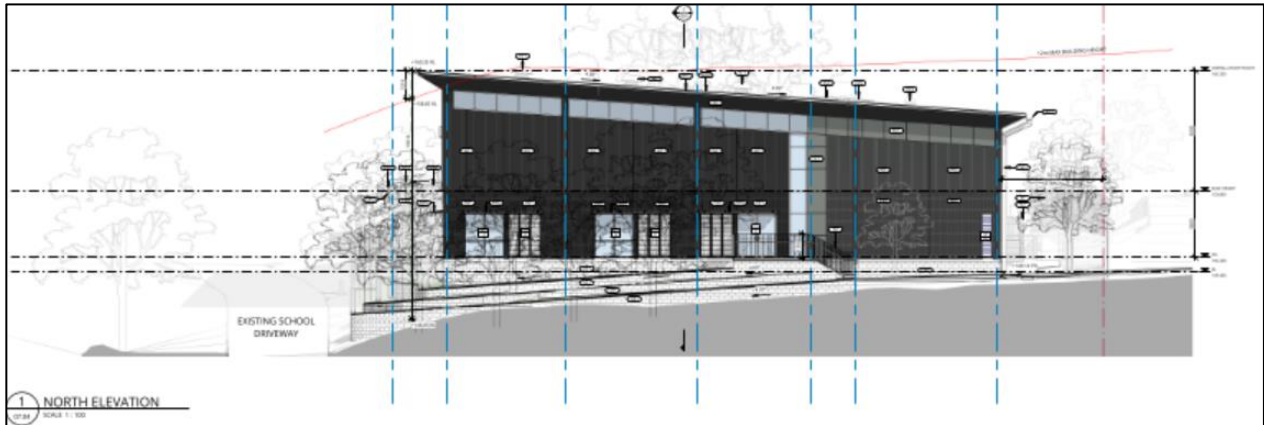
A detailed assessment of the application has been carried out having regard to the matters for consideration under Section 4.15(1) of the Environmental Planning and Assessment Act 1979. The following matters are considered important to this application.

10.1. Height of Buildings

The proposed development fails to comply with the development standard for height. Clause 4.3 of SSLEP 2015 stipulates a maximum height of 12m for this site. Whilst the building in majority complies with the development standard, the north east portion of roof form projects above the height plane by 1.56m to a

maximum height of 13.56m, representing a 13% variation to the development standard.

The north elevation (primary street frontage) and the applicant's depiction of the height non-compliance in perspective view is provided below.



Clause 4.3(2) in relation to maximum building height is a 'development standard' to which exceptions can be granted pursuant to Clause 4.6(2) of SSLEP 2015.

Subject to Clause 4.6(3) development consent may be granted for development that contravenes a development standard but only on the basis of a written request from the applicant seeking to justify the contravention. The written request must demonstrate the following:

- (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.

In terms of Clause 4.6(4), consent must not be granted for development that contravenes the standard unless the written request has adequately addressed the matters in subclause (3). Sub-clause (4) also requires that Council must be satisfied that the proposal is in the public interest because it is consistent with the objectives of the development standard and the objectives for development within the SP2 Zone.

The applicant has lodged a written request in accordance with the requirements of Clause 4.6(3) of SSLEP 2015. A full copy of this request is contained in **Appendix “E”** and the most relevant sections are reproduced below:

The applicant has provided the following reasons as to why the proposed development is supportable on environmental planning grounds:

Topography: The topography of the land is sloping and falls away towards the road from the existing school facilities to which the hall connects to the south. To accommodate the floor plate of a multi-purpose hall, the topography of the land requires retaining and earthworks. This then dictates the 'existing ground level' RL taken for the purposes of measuring the maximum building height. There is no other way to reduce height in response to the topography of the land.

Floor Levels: The proposal provides connection to the Block G (existing school hall) to the south of the new multi-purpose hall. In achieving these connections, the finished floor levels of the building must match with the existing with reasonable consideration being given to accessibility between existing and new. The proposal factors in a level change to reduce the floor level of the new hall thus requiring stairs and ramps, however this difference is maximised and cannot be reduced any further without introducing significant access issues through the difference in floor levels.

Floor to Ceiling Requirements: The function of the multi-purpose hall will include performance and sport uses, which therefore dictate the minimum floor to ceiling requirements for the building. The lowest height is accommodated on the western side of the hall where stage, storage, change room and related facilities are provided (which do not require a greater floor to ceiling height). The floor to ceiling height then only increases to its maximum above the multi-purpose court area. Therefore there is no way through which the floor to ceiling heights can be modified to reduce the building height which would still achieve a suitable design outcome.

Roof Form and Pitch: The roof form has adopted a single sloped skill ion roof form with the pitch adopting the minimum permitted under the SINSW design guidelines (EFSG), being 4%. The roof form is therefore minimised and extends to accommodate the required floor to ceiling heights as discussed above. There are no changes to the roof form and pitch which would enable a reduction to the building height.

Siting and Impacts on Adjoining Properties: The proposal is located on the site to ensure a direct connection with community together with a connection to the existing school facilities (Block G). Due to the orientation and positioning of the multi-purpose hall in relation to the surrounding residential properties and roads, the external impacts associated with new development (such as privacy, overshadowing, view loss etc) are avoided or minimised such that the outcome will not result in unacceptable amenity outcomes for surrounding private or public land.

The extent of the roof form which breaches the building height development standard is located in the north-eastern side of the building and will not result in any direct impacts on adjoining land owners, and will not be readily discernible when viewed from the public domain due to the minor extent of the variation being part of the roof form.

The applicant has provided the following reasons as to why the proposal inclusive of the non-compliance, is consistent with the objectives of the Zone SP2 – Infrastructure ‘Educational Establishment’:

- The proposed development of a multi-purpose hall is a related use to the operation of the site for an educational establishment.*
- The proposed development is consistent with the existing use of a school and will have a wide range of benefits to the school and surrounding community.*

In demonstrating a justification against the requirement of the 4.6(3), the applicant has outlined that compliance with the development standard is unnecessary in this instance. The applicant has provided justification that the objectives of the standard are achieved notwithstanding contravention of the standard consistent with *Wehbe v Pittwater Council [2007]* and provided sufficient environmental planning grounds that justify contravening the standard.

The applicant’s written request to contravene the Cl.4.3 is considered to have adequately addressed the matters as required under Clause 4.6(3). Further, as required under clause 4.6(4)(a), the applicant has adequately undertaken an assessment as to whether the proposed development is in the public interest and is consistent with the zone.

The objectives of the height of buildings development standard set out in Clause 4.3 (1) of SSLEP 2015 are as follows:

- (a) to ensure that the scale of buildings:*
 - (i) is compatible with adjoining development, and*
 - (ii) is consistent with the desired scale and character of the street and locality in which the buildings are located or the desired future scale and character, and*

- (iii) complements any natural landscape setting of the buildings,*
- (b) to allow reasonable daylight access to all buildings and the public domain,*
- (c) to minimise the impacts of new buildings on adjoining or nearby properties from loss of views, loss of privacy, overshadowing or visual intrusion,*
- (d) to ensure that the visual impact of buildings is minimised when viewed from adjoining properties, the street, waterways and public reserves,*
- (e) to ensure, where possible, that the height of non-residential buildings in residential zones is compatible with the scale of residential buildings in those zones,*
- (f) to achieve transitions in building scale from higher intensity employment and retail centres to surrounding residential areas.*

The height non-compliance and extent of the variation is considered minor as it is limited to a small section of the roof form on the north-eastern side of the development. The non-compliance is primarily a consequence of the natural ground level at that point, and provision of a continuous floor level and internal height to achieve both an accessible and functional built environment.

Building height is generally minimised and below the permitted height standard where adjoining Birok Street and the intersection of Porter Road (approx. 8.9m). This is where visual impacts associated with the development would be most apparent given its prominent corner location and proximity to low density residential development where a maximum building height of 8.5m is permitted under SSLEP2015. The open school grounds adjoin to the east and the proposed street setback is at its greatest adjacent to the non-conforming portion of building. This ensures the transition in building height and scale is responsive to the streetscape and interface with the adjoining low density residential zone, both opposite and west along Porter Road. Further landscape treatment including plantings are provided forward of the development which is anticipated to reduce the apparent scale and provide visual relief to the development.

The proposed multi-purpose hall does not present an adverse impact to adjoining properties in terms of overshadowing and visual privacy due to the site characteristic, separation and orientation / design of openings in the development. Acoustic privacy has been addressed by the applicant and supported with suitable conditions of development consent. The non-compliant part of the building does not contribute to the loss of significant or iconic views given the relationship and nature of development (including future) on the adjoining lands.

The proposed development is located within Zone SP2 – Infrastructure ‘Educational Establishment’ and the objectives of this zone are as follows:

- *To provide for infrastructure and related uses.*

- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*

Strict compliance with the development standard would require alteration to the building form including its dimension and internal height, rendering the multi-purpose hall not conducive to its intended purpose. The building is suitably located within the site with respect to its proximity to Block G (i.e. the existing school hall to the south west) and the front boundary (i.e. to Porter Street) noting further street setback discussion is provided in the assessment below. The development accords to the objective of the zone in that the multi-purpose hall is a related use to the operation of the site as an educational establishment and such infrastructure will have a wide range of benefits to the school's operation and for the associated community.

The applicant's submission demonstrates that compliance with the building height development standard is unreasonable or unnecessary in the circumstances of the case. It also demonstrates sufficient environmental planning grounds to justify varying this development standard.

In terms of scale, the proposed development is in the public interest as the proposal complies with the objectives for both height and the Zone SP2 – Infrastructure 'Educational Establishment'.

The proposed variation does not raise any matters of State or Regional environmental planning significance. In addition, there is no public benefit associated with arbitrarily reducing the height to the development standard in the circumstances of this case.

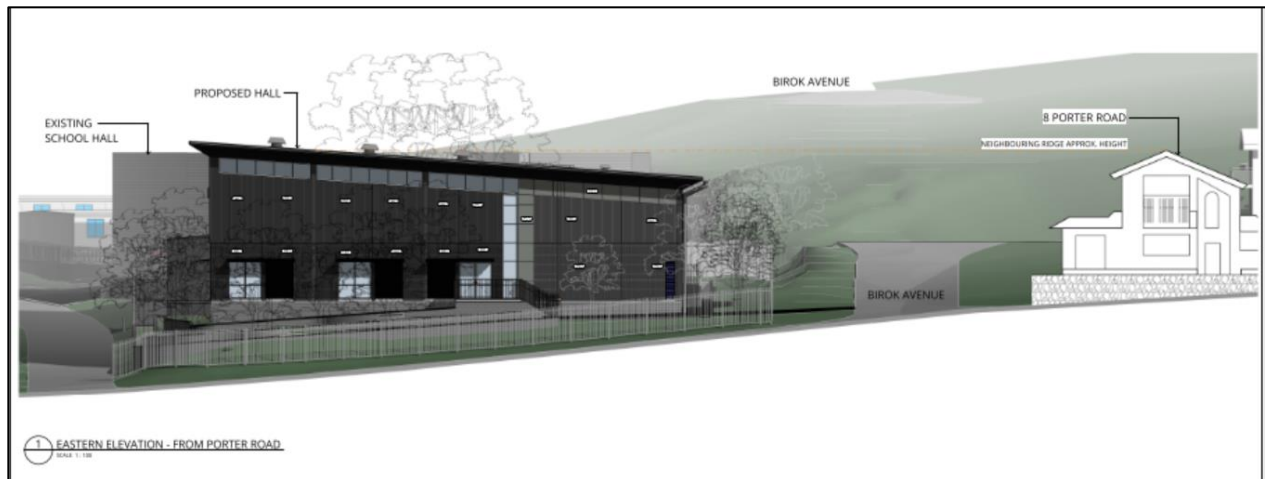
In conclusion the variation to the height development standard satisfies all relevant parts of clause 4.6 and therefore the variation can be supported

1.3 Urban design and Site Planning

Schedule 4 of the ESEPP, Clause 6.16 of SSLEP 2015 and Council's DCP set design quality principles and certain matters of consideration relating to urban design.

The building is in a prominent location and will be an architectural statement identifying the educational establishment. Notwithstanding the minor adjustment made to the building design in response to the DRF as noted in the Architect referral response, the design of the multi-purpose hall is considered to be generally acceptable, noting that this building typology will be at odds in the context of the surrounding low density residential character, yet consistent with built forms anticipated within educational establishments.

A notably more recessive aesthetic and material finish has also been provided which is considered appropriate to reduce the apparent bulk and scale of the development in the streetscape in response to the sites prominent corner location. Below is an extract from the applicant's submission depicting the multi-purpose hall and its contextual fit within the existing streetscape is provided below



As indicated in the “compliance” section of this report, there is an absence of controls applicable to this building typology, however the broader planning objectives have been considered. It is also considered appropriate for the numeric controls contained within “complying development” provisions of the ESEPP, (whilst not applicable) to be considered as a reasonable guideline to inform the basic approach to site planning, including setbacks, particularly in consideration of the applicable design quality principles set out in Schedule 4 of the ESEPP.

Both SSDCP2015 and the ESEPP require development to respond to the prevailing street setback pattern. In this case, the the average distance of the front setbacks of all existing development that is located within the immediate vicinity of the development should inform the proposed development. Where there are no buildings in vicinity, a default 5m is typically applied under the ESEPP and secondary street frontages can be reduced to 3m in the adjacent residential zone under SSDCP2015.

Setbacks within the existing school grounds eastward of the development comprise deep vegetated frontages (approx. 30m setback to closest building). Westward along Porter Road, however, comprises the low density residential development on street alignments varying between 5.2m and 9.9m as outlined in the supporting streetscape analysis comment submitted by the applicant. A setback varying between 9.12m – 10.55m is proposed to the external wall of the multi-purpose hall fronting Porter Road which is considered to be acceptable and responsive to the prevailing character enabling the spatial proportions of the streetscape and perceptions of openness to be adequately reinforced.

Along the Birok Street frontage, a setback varying between 4.83m – 5.79m is proposed to the external wall of the multi-purpose hall. There is no setback pattern established on the eastern side of Birok Street southward of the site with the exception of school buildings which are substantially setback and obscured by existing vegetation. The application of the default 5m setback is considered appropriate, particularly as the height of the western elevation presenting to Birok Street is less than 9m.

10.2. Earthworks

The proposal includes earthworks and Clause 6.2 of SSLEP 2015 requires certain matters to be considered in deciding whether to grant consent. These matters include impacts on drainage; future development; quality and source of fill; effect on adjoining properties; destination of excavated material; likely disturbance of relics; impacts on waterways; catchments and sensitive areas and measures to mitigate impacts. The relevant matters have been considered and the application is acceptable.

10.3. Flood Planning

The proposal is located on land which is potentially affected by flooding. Clause 6.3 requires Council to be satisfied of certain matters prior to development consent being granted. These matters include compatibility; with the flood risk; impact on flooding behaviour; measures to manage risk to life; impact on the environment; and social and economic costs. These matters have been addressed to Council's satisfaction.

10.4. Stormwater Management

Clause 6.4 requires Council to be satisfied of certain matters in relation to stormwater management prior to development consent being granted. These matters include maximising permeable surfaces; on-site stormwater retention minimising the impacts on stormwater runoff. These matters have been addressed to Council's satisfaction.

10.5. Terrestrial biodiversity

The subject land is identified as containing 'Biodiversity' on the Terrestrial Biodiversity Map. Clause 6.5 requires Council's assessment to consider certain matters. Council must consider the potential adverse impact of the development on vegetation/ flora, fauna, biodiversity and habitat. Of further consideration is the conservation and recovery of flora and fauna and their habitats and the potential to fragment or diminish the biodiversity structure, function and connectivity of the land. The relevant matters have been considered as part of the assessment of this application and the proposal is acceptable in this regard.

Further, clause 6.5 requires Council to be satisfied of certain matters prior to development consent being granted. These matters include the design of the development to avoid or minimise the impact; management to minimise the impact if it cannot be avoided and mitigation if the impact cannot be minimised. These matters have been addressed to Council's satisfaction.

10.6. Greenweb

The subject site is identified within Council's Greenweb strategy as a restoration area. The Greenweb is a strategy to conserve and enhance Sutherland Shire's bushland and biodiversity by identifying and appropriately managing key areas of bushland habitat and establishing and maintaining interconnecting linkages and corridors. All new tree plantings must be indigenous species and 50% of understorey plants must be indigenous species in accordance with SSDCP2015. Trees approved for removal are adequately

offset with replacement tree planting which contribute to the Greenweb strategy, enhance the landscape character of the streetscape and provide landscape relief to the proposed building.

10.7. Threatened Species

Threatened species are particular plants and animals that are at risk of extinction and include threatened populations and endangered ecological communities. Threatened species, populations and ecological communities are protected by the Biodiversity Conservation Act 2016, NSW Fisheries Management Act 1994 and the Commonwealth Environmental Protection and Conservation of Biodiversity Act 1999.

Council has mapped the known threatened species, populations and endangered ecological communities. Following a review of this information and an inspection of the site it is concluded that the proposed development will not result in any significant impact on threatened species, populations and endangered ecological communities.

10.8. Archaeological Sensitivity

Council records indicate that the subject site is rated medium in terms of Archaeological Sensitivity. A site inspection did not reveal any evidence of shell material or significant sandstone features within the development zone. The proposal does not warrant an Aboriginal Archaeological Study being undertaken. Notwithstanding the above, and having regard to Clause 5.1 of SSLEP2015 a precautionary condition is recommended to be imposed to ensure suitable steps are undertaken should any Aboriginal objects be unearthed/exposed during the project works.

11.0 DEVELOPMENT CONTRIBUTIONS

Under Council's current s7.12 contributions plans, development that is exempted from paying the levy by Direction of the Minister for Planning, under section 7.17 of the EP&A Act includes applications by a Public Authority for services and community infrastructure. In this instance s7.12 will not apply.

12.0 DECLARATIONS OF AFFILIATION, GIFTS AND POLITICAL DONATIONS

Section 10.4 of the Environmental Planning and Assessment Act, 1979 requires the declaration of donations/gifts in excess of \$1000. In addition Council's development application form requires a general declaration of affiliation. In relation to this development application no declaration has been made.

13.0 CONCLUSION

The property is within Zone SP2 Infrastructure and is identified an 'Educational Establishment' on the zoning maps as contained under the provisions of SSLEP2015. Part 4 of the EESEPP also indicates that the development is within a "prescribed zone" and the proposed development is permitted with development consent.

In response to public exhibition, no submissions were received.

The proposal includes a variation to the maximum 12m building height development standard (13.56m) contained within SSLEP2015 to a relatively small portion of the roof form. This variation has been discussed and is considered acceptable.

Council is largely supportive of a high quality learning / educational environment and the provision of additional facilities to enhance education within the Sutherland locality. Resolution of the matters raised by the DRF are considered sufficient to enable the development to achieve an appropriate architectural / urban design outcome for the site, particularly given the buildings prominent corner location in the context of the surrounding low density residential environment.

The application has been assessed having regard to the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979. The application will not result in any significant impact on the environment or the amenity of nearby residents. Following assessment, Development Application No. DA21/0354 may be supported for the reasons outlined in this report.

The officer responsible for the preparation of this Report is the Manager, Major Development Assessment (EPH).