

## SOUTHERN REGIONAL PLANNING PANEL

SRPP No	PPSSTH-3
DA Number	DA-2019/698
Local Government Area	Wollongong City
Proposed Development	Removal of 15 demountable classrooms, minor demolition works and tree removals. Construction of 20 new classrooms - Blocks H & I, alterations and additions to Blocks A, C & D, new carpark and associated site works and landscaping.
Street Address	Dapto Public School 66 Sierra Drive HORSLEY NSW 2530
Applicant/Owner	Department of Education (DoE)
Number of Submissions	Four (4) submissions received.
List all documents submitted with this report for the panel's consideration	Attachment 1 – Plans Attachment 2 – Visual Impact Assessment Attachment 3 – Clause 4.6 Statement Attachment 4 – Conditions
Recommendation	It is recommended that DA-2019/698 be approved subject to the conditions contained within <b>Attachment 4</b> .
Report by	Maria Byrne, Development Project Officer

## ADDENDUM REPORT

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### Purpose of the Addendum Report

The Development Application DA-2019/698 was reported to the Southern Regional Planning Panel (SRPP) on the 15 April 2020. The decision for the application was deferred as detailed below in Figure 1:

#### REASONS FOR DEFERRAL

The Panel agreed to defer the determination of the matter until the applicant has provided Council with amended plans and additional information as detailed in the minutes below..

The Panel is concerned about the impact on views of the escarpment from the properties in Denham Drive caused by proposed block I, and the conclusions reached in the applicant's Visual Impact Assessment. The Panel is not convinced the view impact is acceptable, when combined with the exceedance by the proposed building with the maximum building height limit under Wollongong LEP 2009. The Panel is not convinced that the proposed roof form is the only design option for proposed block I. The Panel considers that a more skilful design is potentially available for the roof of proposed block I that will lessen view loss. Given that compliance with planning controls is a factor in the assessment of view loss under the planning principles established by the Land and Environment Court in *Tenacity Consulting Pty Ltd v Warringah Council*, the exceedance by the proposed development of the maximum height control under Wollongong LEP 2009 exacerbates the degree of view loss. Accordingly, the Panel does not agree with the conclusion of the applicant's Visual Impact Assessment.

The Panel is also concerned that the clause 4.6 variation request is not well founded having regard to the matters in clause 4.6(4) of the Wollongong LEP 2009. In particular the Panel is not satisfied that the variation request adequately identifies sufficient environmental planning grounds to justify the contravention given the particular roof form proposed, nor is the Panel satisfied that the proposal will be in the public interest having regard to the objectives of the R2 low density residential zone and the height standard, given the impact on views from properties in Denham Drive.

The Panel requests submission of the following amended plans and further information from the Applicant:

1. Revised plans showing a modified roof form (e.g. skillion) for the proposed Block I which reduces the building height.
2. A revised or addendum visual impact assessment showing, for the Denham Drive properties (Viewpoint 14):
  - the current view
  - the proposed view with a compliant building height
  - the proposed view with the amended DA
  - the proposed view with the modified roof form required in 1. above.
3. A revised Clause 4.6 Variation Request for the modified roof form required in 1. above

Figure 1: Reasons for Deferral 15 April 2020.

This addendum report provides an assessment commentary to assist in the further consideration of the application and should be read in conjunction with Council's Assessing Officers report as presented to SRPP on the 15 April 2020.

#### **Matter 1. Revised plans showing modified roof form for the proposed Block I**

Applicant's response:

Revised plans prepared by Perumal Pedavoli Architects dated 20 May 2020 have been provided and presented at **Attachment 1**.

Council comment:

Three roof profile options have been considered to reduce the overall height of Block I:

- Option 1: Skillion roof with 5 degree roof pitch;
- Option 2: Hip roof with 18 degree roof pitch; and
- Option 3: Gable roof with 5 degree roof pitch

## **Matter 2. Addendum visual impact assessment**

Applicant's response:

A revised Visual Impact Assessment (VIA) as required above has been provided and presented at **Attachment 2**.

Council comment:

The addendum visual impact assessment showing, for the Denham Drive properties (Viewpoint 14):

- The current view
- The proposed view with a compliant building height
- The proposed view with the amended DA
- The proposed view with the modified roof form required in 1.above.

The Visual Impact Assessment (VIA) has been prepared by DFP Planning. A modified version of Option 3 with a hip roof was selected as the preferred option, as it has the lowest ridge height of RL 33.765. The VIA concludes that the Block I will have a high-moderate impact on district views to the south and south-east from Nos 32, 34 and 36 Denham Drive. However, the view sharing is considered reasonable as Block I is located in the centre of the school site with deep setbacks to the site boundaries (approximately 48m from the northern boundary). It has been designed to respond to the topography of the site. Whilst, Block I is three (3) storeys, it will appear as two (2) storeys from the north, due to the ground floor being excavated into the existing embankment.

Design modifications to the roof profile mean that the ridge of the roof is a maximum of 276mm above the 9m height of buildings development standard. The difference between the ridge at a complying height and at the proposed height of RL 33.765 is not discernible from Viewpoint 14. The section of the building that exceeds the 9m height limit is located south of the ridgeline and therefore is not visible from the north. The amount of roof that is visible from the north is also reduced. The proposed planting along the northern elevation of the building will also assist in reducing visual impact.

It is considered that Option 3 as modified provides the better outcome in relation to the visual impact.

## **Matter 3. A revised Clause 4.6 Variation Request for the modified roof form required**

Applicant's response:

A revised Clause 4.6 Variation Request for the modified roof form as required at 1. above has been provided and presented at **Attachment 3**.

Council comment:

The revised development standard departure request identifies environmental planning grounds to justify the contravention to building height given the revised roof form and the objectives of the R2 zone in relation to view impact and the public interest.

The table below outlines Council's assessment:

<b>WLEP 2009 Clause 4.6 proposed development departure assessment</b>	
Development departure	Clause 4.3 of WLEP 2009
Is the planning control in question a development standard	Yes
4.6 (3) Written request submitted by applicant contains a justification:	
that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and	Justification as provided by applicant at <b>Attachment 3</b> .
that there are sufficient environmental planning grounds to justify contravening the development standard.	Justification as provided by applicant at <b>Attachment 3</b> .

4.6 (4) (a) Consent authority is satisfied that:	
the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and	<p>The statement submitted by the applicant is considered to have addressed the matters required to be demonstrated, in that compliance to the development standard is unnecessary or unreasonable in the circumstances of the case.</p> <p><i>In his judgement of Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7 ('Micaul'), Preston CJ confirmed that an established means of demonstrating that compliance with a development standard is unreasonable or unnecessary is to establish that development would not cause environmental harm and is consistent with the objectives of the development standard. It is considered that compliance with the height of building development standard is unreasonable and unnecessary and that the potential adverse impacts of the proposed development can be appropriately mitigated or minimised as described in Table 1 (See Attachment 3). Furthermore, the proposed development is considered to be consistent with the objectives of the height of building development standard (see Tables 2,3 at Attachment 3) and there is no discernible difference in relation to view impacts between the ridge line at a compliant height compared to the proposed modified ridge height of RL 33.765.</i></p>
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	<p><i>Pursuant to clause 4.6(4)(b) and as discussed by Preston CJ in Initial Action, if the development is consistent with the objectives of the development standard and the objectives of the zone, the consent authority can be satisfied that the development will be in the public interest.</i></p> <p><i>An assessment of the proposal against the objectives of the height of buildings development standard and an assessment of the proposed development against the objectives of the R2 Low Density Residential Zone is contained in Table 4 at Attachment 3.</i></p> <p><i>These assessments demonstrate that the proposed development is consistent with the relevant objectives of the development standard to be varied and the relevant objectives of the zone within which the development is to be carried out. Accordingly, it follows that the proposed development is in the public interest.</i></p>
the concurrence of the Secretary has been obtained.	Referral to the Department of Planning is not required (Planning Circular PS 18-003 issued 21 February 2018) as the SRPP assumes the Secretary's concurrence.

## Consultation

### Exhibition

The additional information was re-notified to previous submitters between 25 June 2020 and 9 July 2020 with submissions being received until 14 July 2020 due to mail delays at this time.

Four submissions were received, and the issues identified are identified and discussed below:

Concern	Comment
<p><b>1. Overdevelopment of the site:</b></p> <ul style="list-style-type: none"> <li>Number of students</li> <li>Noise impacts</li> <li>Lack of amenity for students</li> <li>Out of character</li> </ul>	<p>This matter was raised in previous submissions and remains a concern for the four submitters. The proposed additions and alterations to an existing Information and Education facility (Dapto Primary School) is permissible in the R2 Low Density Residential zone. Restricting development at the school and NSW School guidelines are wider DoE matters outside the scope of the current DA. The proposal is permissible on the land under the Wollongong Local Environmental Plan 2009 (WLEP).</p>

Concern	Comment
	Planning Circular PS 17-004, it is not the purpose of this DA to establish a 'cap' on the number of students or staff within this School site and it is proposed that Council recognise the need for flexibility in this regard. As noted in the Planning Circular, <i>"Public schools are legally required to accommodate all children within their local catchment, and intake can fluctuate considerably between years and may be hard to predict"</i> .
<b>2. Amenity impacts to neighbouring properties:</b> <ul style="list-style-type: none"> <li>• Privacy</li> <li>• Loss of views due to height</li> <li>• Visual impact errors</li> <li>• Noise</li> </ul>	<p>This matter was raised in previous submissions and remains a concern for the four submitters. On balance, the proposal is considered to provide better amenity for neighbouring properties to the western boundary of the proposal.</p> <p>The Visual Impact Analysis as submitted by the applicant outlines the view impact from neighbouring properties and addresses established Court Principles. The levels have been checked for correctness by the applicant. Noting that scaling from a growing tree utilised for levels by a submitter may not provide accurate levels.</p> <p>Council has reviewed the analysis and considers the view loss has been slightly ameliorated by the revised roof form.</p> <p>Normal school noise is to be expected during school hours and construction noise will be conditioned for.</p>
<b>3. Traffic</b>	As previously raised, Council's Traffic Officer is satisfied that traffic and car parking demand generated by the proposed development is unlikely to impact on the local road network.
<b>4. Condemnation of government processes and Applicant responses</b>	Noted. The application has been assessed and determined as required under relevant planning legislation.

#### Frequency of issues raised:

Issue	1	2	3	4
Frequency	4	4	1	1

Some of the issues identified in submissions received whilst technically unresolved are considered to have been adequately addressed by way of design changes or conditions of consent.

#### Internal consultation

No internal referrals were considered necessary.

#### External consultation

No external referrals were considered necessary.

## CONCLUSION

This Supplementary Report has addressed the matters outlined in the SRPP deferral reasons in the decision dated 15 April 2020.

This application has been assessed as satisfactory having regard to the Heads of Consideration under Section S4.15(1) of the Environmental Planning and Assessment Act 1979, the provisions of Wollongong Local Environmental Plan 2009 and all relevant Council DCPs, Codes and Policies.

The application contained a detailed submission addressing Clause 4.6 (3) of WLEP2009 'Exceptions to development standards' in relation to Height of buildings, which has been considered and is capable of support.

It is considered the proposed development has been designed appropriately given the constraints and characteristics of the site. It is acknowledged that some of the issues identified in submissions are technically unresolved, however it is considered these matters should not preclude the development from proceeding in the public interest.

## **RECOMMENDATION**

It is recommended pursuant to Section 4.16 of the *Environmental Planning & Assessment Act 1979* that the Southern Regional Planning Panel considers the original assessment report presented and this supplementary report and determine DA-2019/698 by way of approval subject to the conditions contained within **Attachment 4**.

## **ATTACHMENTS**

- 1 Architectural Plans
- 2 Visual Impact Assessment
- 3 Clause 4.6 'Exceptions to Development Standards' Statement
- 4 Conditions