

SOUTHERN REGIONAL PLANNING PANEL

Panel Reference	PPSSTH-334
DA Number	DA-2023/962
LGA	Wollongong City Council
Proposed Development	Construction of Technical and Applied Studies (TAS) Building and associated works, installation of lift and accessible pathways, part minor demolition of structures, extension of Block B, drainage, landscaping and tree removal
Street Address	Edmund Rice College 112 Mount Keira Road WEST WOLLONGONG
Applicant/Owner	Quinn O'Hanlon Architects Pty Ltd
Accepted date	8 December 2023
Total number of Submissions Number of Unique Objections	Three (3) submissions
Recommendation	Approval
Regional Development Criteria (State Environmental Planning Policy (Planning Systems) 2021 – Schedule 6 Regionally significant development)	The application has been referred to the Southern Regional Planning Panel as the consent authority under section 4.5(b) of the Environmental Planning & Assessment Act 197. The proposal is identified as regionally significant development under SEPP (Planning Systems) 2021, Schedule 6 Section 5. The estimated development cost for the proposed development (as lodged) has a value of \$12 million.
List of all relevant s4.15(1)(a) matters	<p>s4.15 (1)(a)(i) Any environmental planning instruments:</p> <p><i>State Environmental Planning Policies (SEPPs):</i></p> <ul style="list-style-type: none"> • SEPP (Planning Systems) 2021 • SEPP (Transport and Infrastructure) 2021 • SEPP (Resilience and Hazards) 2021 • SEPP (Biodiversity and Conservation) 2021 • State Environmental Planning Policy (Sustainable Buildings) 2022 <p><i>Local Environmental Planning Policies</i></p> <ul style="list-style-type: none"> • Wollongong Local Environmental Plan 2009 <p><i>Other policies:</i></p> <ul style="list-style-type: none"> • Wollongong City-Wide Development Contributions Plan 2024 • Wollongong Community Participation Plan 2023 <p>s4.15(1)(a)(ii) Any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority:</p> <ul style="list-style-type: none"> • N/A <p>s4.15 (1)(a)(iii) Any development control plan:</p> <ul style="list-style-type: none"> • Wollongong Development Control Plan 2009

	<p>s4.15 (1)(a)(iia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4</p> <ul style="list-style-type: none"> N/A <p>s4.15 (1)(a)(iv) regulations</p> <p>Section 61 Demolition</p>
List all documents submitted with this report for the Panel's consideration	<p>Attachments</p> <ol style="list-style-type: none"> Architectural plans including landscape and stormwater plans. Applicant's Section 4.6 Variation Request Wollongong Development Control Plan 2009 Assessment Conditions
Section 4.6 requests	The application includes a Section 4.6 Exceptions to development standards request to the Wollongong Local Environmental Plan 2009 in relation to Section 4.3 Height of Buildings.
Summary of key submissions	<ul style="list-style-type: none"> Inadequate on-site parking provision Traffic issues during and after completion Flooding issues Lack of Vegetation Management Plan submission
Report prepared by	Brigit Mathai- Development Project Officer
Report date	14 November 2024
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 Sections requiring consent authority satisfaction	
Have relevant Sections in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? <i>e.g. Section 7 of SEPP 55 - Remediation of Land, Section 4.6(4) of the relevant LEP</i>	Yes
Section 4.6 Exceptions to development standards	
If a written request for a contravention to a development standard (Section 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)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	Not applicable
Conditions	
Have draft conditions been provided to the applicant for comment?	Yes

EXECUTIVE SUMMARY

Reason for consideration by Southern Regional Planning Panel

The proposal has been referred to Southern Regional Planning Panel as the consent authority pursuant to Section 4.5(b) of the Environmental Planning and Assessment Act 1979 as the development category is an educational establishment over \$5 million within *Section 5 Private infrastructure and community facilities (as in Schedule 6 of the State Environmental Planning policy (Planning Systems) 2021)* having an estimated development cost of \$12 million.

Proposal

The proposal seeks consent for the construction of Technical and Applied Studies (TAS) Building and associated works, installation of lift and accessible pathways, part minor demolition of structures, extension of Block B, drainage, landscaping and tree removals.

Permissibility

The site is zoned R2 Low Density Residential pursuant to Wollongong Local Environmental Plan (WLEP) 2009. The proposed development is permissible with development consent under Section 3.36(1) of SEPP (Transport and Infrastructure) 2021 as the school is existing and located within a prescribed zone (R2).

Consultation

The proposal was exhibited in accordance with Council's Community Participation Plan 2023 and received three (3) submissions.

Referrals

Council's Geotechnical, Traffic, Stormwater, Environment, Community Safety, Building and Landscape Officers have provided support and relevant conditions of consent.

DPE-Water have provided General Terms of Approval on 5 March 2024 for work adjacent the category 2 watercourse traversing the site – related mainly to stormwater drainage headwall installation.

Key assessment issues

- Flood issues: initially the submitted flood report and associated analysis / modelling had to be updated to reflect the latest adopted flood study for the Fairy / Cabbage Tree Catchment 2020. The proposal also was required to demonstrate that students are able to maintain access to other the areas of the school not impacted by flooding without having to enter floodwaters in events up to the PMF.

A Revised flood study report submitted on 25 October 2024 has been reviewed by Council officers and is satisfactory.

- Impact to Trees: the proposal required design amendments to reduce impact on existing vegetation so that more significant trees could be retained. A revised Arborist report submitted showed less impact on trees, providing an acceptable outcome.
- Section 4.6 Exception to development standard – Maximum building height pursuant to Cl. 4.3 WLEP 2009 arising due to the fill pad required for floor levels to satisfy flood impacts and the need to incorporate a lift and overrun to an existing building.

Conclusion and Reasons

The proposed development has been assessed with regard to the relevant prescribed matters for consideration outlined in Section 4.15 of the Environmental Planning & Assessment Act 1979.

The development is permissible with consent and has regard to the objectives of the zone. The exception to height development standard within Wollongong LEP 2009 has satisfied the requirements of Section 4.6 and is capable of support in both instances.

Matters raised in the submissions are considered to have been acknowledged and addressed or can be appropriately managed by conditions. Council's internal referral groups have provided conditionally satisfactory referral advice and DPE-Water have provided General Terms of Approval for work adjacent the watercourse traversing the site.

The proposed development has been designed appropriately given the constraints and characteristics of the site and will not result in significant adverse impacts on the amenity of the surrounding area. The development as proposed would not set an undesirable precedent and approval is in the public interest.

RECOMMENDATION

DA-2023/962 be approved subject to conditions provided at **Attachment 4**.

1 APPLICATION OVERVIEW

1.1 PLANNING CONTROLS AND COMPLIANCE

The following planning controls apply to the proposal:

State Environmental Planning Policies: (SEPPs)

- SEPP (Resilience and Hazards) 2021
- SEPP (Transport and Infrastructure) 2021
- SEPP (Planning Systems) 2021
- SEPP (Biodiversity and Conservation) 2021
- SEPP (Sustainable Buildings) 2022

Local Environmental Planning Policies:

- Wollongong Local Environmental Plan (WLEP) 2009

Development Control Plans:

- Wollongong Development Control Plan 2009

Other policies

- Wollongong City Wide Development Contributions Plan
- Wollongong Community Participation Plan

1.2 DETAILED DESCRIPTION OF PROPOSAL

The proposal involves:

- The construction of a Technical and Applied Studies (TAS) Building, and associated works,
- The installation of a lift, stairwell and associated accessible pathways to service existing buildings on the site,
- Minor extension to Block B which is the construction of a student support space.
- Demolition of some existing structures
- Associated drainage, landscaping and other works

The two storey TAS building comprises the following,

Lower level:

- a loading dock for the delivery of materials
- an outdoor covered area for learning activities
- five (5) separate workshop/studios used for woodworking or metal work; and
- Two (2) open plan machine workspaces, with adjacent tool and materials storage.
- tiered spectator seating which overlooks the sporting oval to the south.

Upper level:

- theory rooms,
- a robotics laboratory,
- multi-media room and
- 3D printer room.

1.3 BACKGROUND

Application Number	Description (Application)
CD-2022/52	Alterations and Additions to Block A and D
PL-2022/158	Draining sports fields - requirements for drainage installation on riparian land
CERT-2023/261	Planning Certificate (Default category)
OC-2023/185	Alterations and Additions to Block A and D.
DA-2023/273	Education facility – installation of drainage and irrigation works to Sheppards and McCabe Ovals
PL-2023/49	Construction of 2 storey TAS & STEM Centre for Edmund Rice College, with associated landscaping, carparking, road and pedestrian access upgrades.
CC-2023/860	Education Facility - Installation of Drainage and Irrigation Works to Sheppards and McCabe

A pre-lodgement meeting was held for the proposal.

DA-2023/615 Timeline

- DA-2023/962 was lodged on 8 December 2023 and publicly exhibited between 18 December 2023 and 8 February 2024.
- Council issued a letter requesting information on 7 May 2024.
- A revised package of information was uploaded to the Planning Portal on 4 September 2024.
- The revised flood study report was uploaded on 25 October 2024.

Council considered that due to the nature of the additional information submitted the revised package did not require re-exhibition

1.4 SITE DESCRIPTION

The site is zoned R2 Low Density Residential pursuant to Wollongong Local Environmental Plan 2009 and is located at 112 Mount Keira Road WEST WOLLONGONG and the title reference is Lot 419 DP 1249737. Edmund Rice College is located at the site with various school buildings located towards the northern portion of the site. A Chapel is also located towards the north-eastern side. Sporting facilities and playing fields are located at the entrance and southern part of the site.

The site is irregular in shape and with gradual fall from all directions towards the middle of the site along the watercourse. The site contains numerous trees and is heavily vegetated along the eastern and north-western side boundaries and sporting fields.

Adjoining developments are single and double storey low density dwellings. Keira Oval is located adjoining the northern boundary of the school site. See Figures 1 and 2.

Property constraints

Council records identify the land as being impacted by the following constraints:

- Contamination: The site contains a geo-referenced asbestos containment cell under the playing fields in the southern portion. Council's Environment officer has reviewed the application in this regard.
- Flooding: The site is identified as being located within a flood risk precinct. Council's Stormwater Officer has reviewed the application in this regard providing a satisfactory referral subject to conditions. The proposal does not represent an increased risk to life or property in regard to flooding.
- Restrictions on the title: Restriction on the use of Land – Positive covenant benefited by Right of Carriageway and Easement for Drainage.
- A category 2 watercourse traverses the site into which stormwater drainage is proposed to be disposed via a headwall. The proposal is therefore Integrated Development under the Water Management Act 2000. No concerns have been raised by DPE Water who have issued GTA's.



Figure 1: Aerial photograph



Figure 2: WLEP 2009 zoning map



Location of proposed TAS building





Location of new student support room (blue outline)



New lift and access area (blue outline)

Figure 3: Site photograph(s)

1.5 SUBMISSIONS

The application was exhibited in accordance with Council's Community Participation Plan. Three (3) submissions were received and the issues identified are discussed below.

Table 1: Submissions

Concern	Comment
1. Increase of traffic volume and parking issues, inadequate on-site parking provision	The applicant has indicated there is no proposed increase to the student or staff population as part of the proposed development.

Concern	Comment
	<p>The application has been submitted and assessed against SEPP (Transport and Infrastructure) 2021. Development standards under the SEPP do not stipulate additional controls related to parking for an existing educational facility.</p> <p>Council's Traffic Officer has reviewed the proposal and no concerns were raised in relation to traffic volume and additional parking requirements. Conditions are included at Attachment 4 that require all large vehicle servicing and deliveries to be undertaken outside of normal operating hours in order to reduce potential conflicts and reduce traffic volume during peak hours.</p>
2. Flooding issues	<p>Details of the application including flooding were referred to Council's Stormwater officer for comment.</p> <p>Council requested further flooding information with regard to the basement and stormwater management plans. Additional flooding information and stormwater management plans were provided to Council.</p> <p>The additional information and amended plans have been reviewed by Council's Stormwater Officer and has resolved concerns raised.</p>
3 Lack of Vegetation Management Plan submission even if lot of trees are removed	Council's Environment officer and DPE-Water have reviewed the proposal and are satisfied that a Vegetation Management Plan is not necessary
4 Non-compliance in building Height	A Section 4.6 written request has been submitted by the applicant which satisfactorily addresses requirements of the Section and is capable of support in both instances.
5 Information within the Access report not satisfactory	An Access report has been submitted, reviewed by Council's Building Officer and is conditionally satisfactory

1.6 CONSULTATION

1.6.1 INTERNAL CONSULTATION

Geotechnical Officer

Council's Geotechnical Officer has reviewed the application and has provided a satisfactory referral. No specific conditions were recommended.

Stormwater Officer

Council's Stormwater Officer has reviewed the application and provided a satisfactory referral. Conditions are recommended.

Landscape Officer

Council's Landscape Officer has reviewed the application and provided a satisfactory referral. Conditions are recommended.

Traffic Officer

Council's Traffic Officer has reviewed the application and provided a satisfactory referral. Conditions are recommended.

Building

Council's Building Officer has reviewed the application and provided a satisfactory referral. Conditions are recommended.

Environment Officer

Council's Environment Officer has reviewed the application and provided a satisfactory referral. Conditions are recommended.

Community Safety Officer

Council's Community Services Officer has reviewed the application and provided a satisfactory referral. Conditions are recommended.

1.6.2 EXTERNAL CONSULTATION

Department of Planning & Environment – Water (DPE – Water)

DPE – Water has issued General Terms of Approval on 5 March 2024 for works adjacent the watercourse which are incorporated into the conditions.

2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

NSW BIODIVERSITY CONSERVATION ACT 2016

Section 1.7 of the Environmental Planning and Assessment Act 1979 (EP&A Act) provides that Act has effect subject to the provisions of Part 7 of the Biodiversity Conservation Act 2016 (BC Act).

Part 7 of the BC Act relates to Biodiversity assessment and approvals under the EP&A Act where it contains additional requirements with respect to assessments, consents and approvals under this Act.

Section 7.2 of the Biodiversity Conservation Regulation 2017 provides the minimum lot size and area threshold criteria for when the clearing of native vegetation triggers entry of a proposed development into the NSW Biodiversity offsets scheme. For the subject site, entry into the offset scheme would be triggered by clearing of an area greater than 0.25 hectares based upon the minimum lot size of the WLEP 2009 R2 zoned land (i.e. less than 1 hectare minimum lot size). The area of native vegetation proposed to be removed does not exceed the biodiversity offsets scheme (BOS) area threshold.

Part 6 of the BC Act outlines the details of the NSW Biodiversity offset scheme and details the requirements of the biodiversity development assessment report (BDAR). The subject lot is not identified on the Biodiversity Values Map. The proposed development is not likely to significantly affect threatened species or ecological communities, or their habitats. The proposal does not trigger entry into the BOS. A Biodiversity Development Assessment Report from an accredited assessor is not required.

Council's Environment Officer has reviewed the application and provided satisfactory referral advice. The development is not considered to result in adverse impacts on biodiversity and is consistent with the provisions of the Biodiversity Conservation Act 2016.

2.1 STATE ENVIRONMENTAL PLANNING POLICIES

2.1.1 STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

The SEPP (Biodiversity and Conservation) 2021 applies to Wollongong Local Government Area, identified as being in the South Coast koala management area.

Section 4.9 Development assessment process – no approved koala plan of management for land

Consent can be issued for development on the subject land if Council is satisfied that the land subject of the development application;

- (i) does not include any trees belonging to the koala use tree species listed in Schedule 3 for the relevant koala management area, or
- (ii) is not core koala habitat

the land is *not* core koala habitat.

core koala habitat means—

- (a) an area of land which has been assessed by a suitably qualified and experienced person as being highly suitable koala habitat and where koalas are recorded as being present at the time of assessment of the land as highly suitable koala habitat, or
- (b) an area of land which has been assessed by a suitably qualified and experienced person as being highly suitable koala habitat and where koalas have been recorded as being present in the previous 18 years.

The application has been reviewed by Council's Environment Officer and the proposed development is not considered core koala habitat and unlikely to impact koalas or koala habitat.

2.1.2 STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

Chapter 4 Remediation of land

4.6 Contamination and remediation to be considered in determining development application

Details of the application submission were referred to Council's Environment officer with the following advice received:

"The site contains an Asbestos Containment Cell and is subject to a long-term Environmental Management Plan (EMP) (Noel Arnold and Associates, February 2014). The proposed works are located immediately adjacent to the containment cell, and whilst no excavation is proposed, footings will be provided.

A certified contaminated land consultant will be required to be on site to supervise all works within 15m of the surveyed Containment Cell. If the cell is encountered during works, all works are to cease until appropriate measures are put in place in accordance with the EMP.

The EMP will be required to be implemented and is to be incorporated as a condition of consent."

Subject to the recommended conditions, no concerns are raised in regard to contamination as it relates to the intended use of the land and the consent authority can be satisfied of matters under Section 4.6 such that the site can be made suitable for the proposed use.



Figure 4 – Contaminated land Map

2.1.3 STATE ENVIRONMENTAL PLANNING POLICY (SUSTAINABLE BUILDINGS) 2022

Chapter 3 Standards for non-residential development

The SEPP (Sustainable Buildings) 2022 applies to the development.

3.2 Development consent for non-residential development

(1) In deciding whether to grant development consent to non-residential development, the consent authority must consider whether the development is designed to enable the following—

- (a) the minimisation of waste from associated demolition and construction, including by the choice and reuse of building materials,
- (b) a reduction in peak demand for electricity, including through the use of energy efficient technology,
- (c) a reduction in the reliance on artificial lighting and mechanical heating and cooling through passive design,
- (d) the generation and storage of renewable energy,
- (e) the metering and monitoring of energy consumption,
- (f) the minimisation of the consumption of potable water.

(2) Development consent must not be granted to non-residential development unless the consent authority is satisfied the embodied emissions attributable to the development have been quantified.

The proposal has demonstrated this via the following:

A Section J – Energy Evaluation report has been submitted, reviewed by Council's Environment and Building officers and is satisfactory.

2.1.4 STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021

Chapter 3 Educational establishments and child care facilities

3.36 Schools—development permitted with consent

(1) Development for the purpose of a school may be carried out by any person with development consent on land in a prescribed zone.

(2) Development for a purpose specified in section 3.40(1) or 3.41(2)(e) may be carried out by any person with development consent on land within the boundaries of an existing or approved school.

(3) Development for the purpose of a school may be carried out by any person with development consent on land that is not in a prescribed zone if it is carried out on land within the boundaries of an existing or approved school.

(4) Subsection (3) does not require development consent to carry out development on land if that development could, but for this Chapter, be carried out on that land without development consent.

(5) A school (including any part of its site and any of its facilities) may be used, with development consent, for the physical, social, cultural or intellectual development or welfare of the community, whether or not it is a commercial use of the establishment.

(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.

The proposal complies with Section 3.36(1) as the works are carried out with development consent for the purpose of a school located within R2 zone which is land in a prescribed zone.

Design Quality Principles – Schedule 8 Assessment.

Principle	Design details	Compliance
Principle 1: context, built form and landscape	<p>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.</p> <p>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.</p>	<p>Yes.</p> <p>The new TAS building is designed to respond to the existing site conditions and is integrated with the existing landscape settings.</p> <p>The building and additions are setback well inside the site minimising impacts to the existing streetscape and neighbouring sites.</p>
Principle 2: sustainable, efficient and durable	<p>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.</p> <p>Schools should be designed to be durable, resilient and adaptable, enabling them to evolve over time to meet future requirements.</p>	<p>Yes.</p> <p>The design of the new TAS buildings and other additions incorporate sustainable measures featuring highlight windows and roof forms for future solar panel installation.</p>
Principle 3: accessible and inclusive	<p>School buildings and their grounds should provide good wayfinding and be welcoming, accessible and inclusive to people with differing needs and capabilities.</p> <p>Schools should actively seek opportunities for their facilities to be shared with the community and cater for activities outside of school hours.</p>	<p>Yes.</p> <p>The proposed lift facility to the main building and the siting of the new TAS building achieve this outcome.</p>
Principle 4: health and safety	<p>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.</p>	<p>Construction of a new TAS building separated from the main block of the school is an outcome to protect health and safety of students and staff at school.</p>
Principle 5: amenity	<p>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.</p> <p>Schools located near busy roads or near rail corridors should incorporate appropriate noise mitigation measures to</p>	<p>Yes.</p> <p>The proposed additions and siting of the new TAS building achieve the amenity outcome</p>

	<p>ensure a high level of amenity for occupants.</p> <p>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</p>	
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.	<p>Yes.</p> <p>The proposal is considered to achieve this principle.</p>
Principle 7: aesthetics	<p>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.</p> <p>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.</p>	<p>Yes.</p> <p>The building and additions proposed are integrated well within the existing school complex with the siting and building materials and adopted colours to the finishes.</p>

Overall, the proposal achieves compliance with the Design Quality Principles and satisfies the SEPP requirements.

2.1.5 STATE ENVIRONMENTAL PLANNING POLICY (PLANNING SYSTEMS) 2021

Chapter 2 State and regional development:

2.19 Regionally significant development,

(1) Development specified in Schedule 6 is declared to be regionally significant development for the purposes of the Act.

Schedule 6 (5) Private infrastructure and community facilities over \$5 million:

Development that has an estimated development cost of more than \$5 million for any of the following purposes—

(a) air transport facilities, electricity generating works, port facilities, rail infrastructure facilities, road infrastructure facilities, sewerage systems, telecommunications facilities, waste or resource management facilities, water supply systems, or wharf or boating facilities,

*(b) affordable housing, child care centres, community facilities, correctional centres, **educational establishments**, group homes, health services facilities or places of public worship.*

The proposed development is classified as a Regionally Significant development being an educational establishment with estimated development cost of \$12M.

Note: CIV was replaced with Estimated Development Cost (EDC) to estimate development cost on 4 March 2024. Savings and transitional provisions under the Environmental Planning and Assessment Regulation 2021 have the effect that CIV applies for development applications submitted on the NSW Planning Portal before 4 March 2024.

2.1.6 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

Section 2.2 – Zoning of land to which Plan applies

The zoning map identifies the land as being zoned R2 Low Density Residential

Section 2.3 – Zone objectives and land use table

The objectives of the zone are as follows:

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

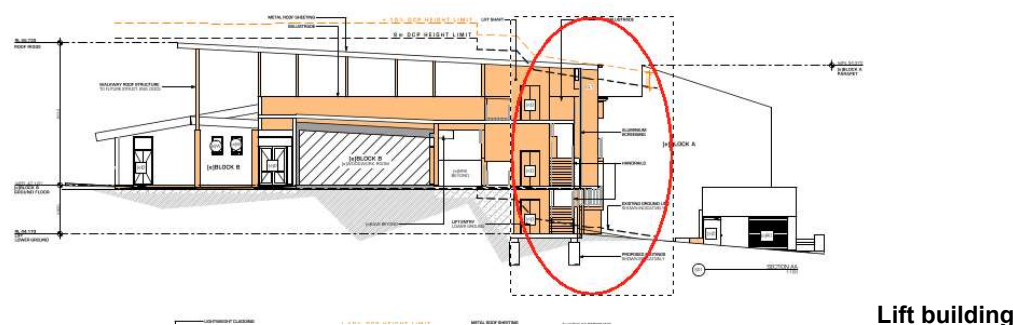
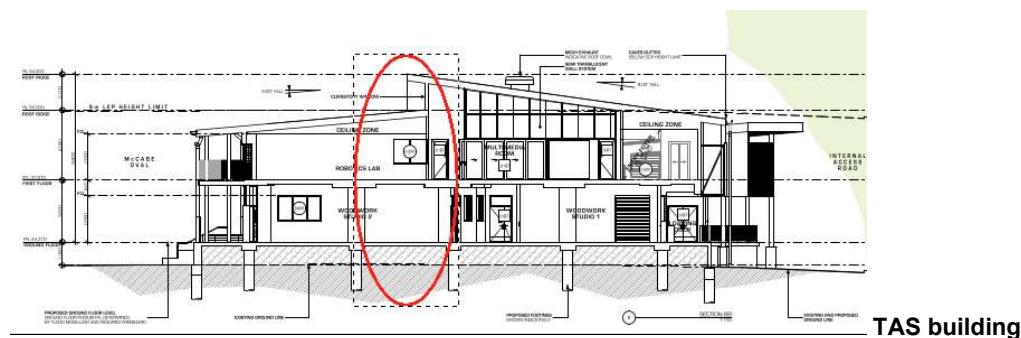
The proposal is satisfactory with regard to the above objectives.

Education establishments are permitted in the zone via the provision of the SEPP (Transport and Infrastructure 2021).

Section 4.3 Height of buildings

The building height of the proposed new TAS building and additions to the existing building exceeds the maximum 9m permitted for the site. The height of TAS building is 11.3m and the height of the existing building with the installation of lift room is 10.5m. Percentage exceedance is less than 10% in both instances.

The buildings generally comply with the development standard with the exception at minor portions as depicted in the below diagrams.



An exception to the development standard is submitted by the applicant which is discussed below. The applicant's Cl.4.6 Departure Request statement is provided at Attachment 2.

Section 4.4 Floor space ratio

Maximum FSR permitted for the zone: 0.5:1

Site area: 9 hectares

Existing GFA: 9900m²

Added GFA 1800m²

Total GFA 11700m²

Proposed FSR: 0.13:1

The proposal complies with the FSR development standard.

Section 4.6 Exceptions to development standards

(1) *The objectives of this Section 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.*

WLEP 2009 Section 4.6 proposed development departure assessment	
Development departure	Section 4.3 – Height of buildings
<ul style="list-style-type: none"> Is the provision being varied a development standard? 	Yes
<ul style="list-style-type: none"> Has a written request been provided by the applicant in accordance with 35B of the EPA Regulation 2021? 	The application is accompanied by a cl. 4.6 Exception request as contained at Attachment 2 .
<ul style="list-style-type: none"> Is the written request accurate? For example that it has: <ul style="list-style-type: none"> correct references to the LEP and relevant objectives correct calculation and identification of the area of and extent of the variation in the case of a proposed height variation, a check of how ground level is identified the written request demonstrates where the variation is 	<p>Yes.</p> <p>The cl. 4.6 Statement states correct references to the LEP and provides necessary justification to relevant objectives correct calculation and the extent of departure.</p> <p>The written request demonstrates the height departure having considered the existing ground levels and the point of maximum exceedances for the buildings.</p>
(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—	
(a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and	The portion of the development to exceed the height limit is the section of the proposed TAS building where clerestory windows are proposed. The reliance of these windows is to provide natural light and ventilation to the

	<p>school classrooms. The overall height of the TAS building is influenced by a fill pad required for floor levels to mitigate flood impacts</p> <p>The construction of the lift, new stairwells and associated walkways are to improve accessibility within the school. The lift well exceeds the height limit by 1.5m which is acceptable due to the fall of the land and the need to connect into the existing structure</p> <p>The siting of both buildings with proposed non-compliances are well within the existing school grounds enabling flexibility for consideration that strict compliance with the development standard is unreasonable and unnecessary in the circumstances, and there are sufficient environmental planning grounds to justify the contravention.</p>
(b) there are sufficient environmental planning grounds to justify the contravention of the development standard.	<p>The additional height being sought would have no additional impact on the amenity of neighbours through loss of privacy, or amenity or overshadowing. The advantage provided by the clerestory windows with regard to natural ventilation and light within the building contributes to the sustainability of the building.</p> <p>The height departures will not detrimentally impact on the streetscape or any adjoining or adjacent existing building envelope.</p> <p>The height of TAS the building is to facilitate the easy manoeuvring of materials within the building which can be large, heavy and cumbersome.</p> <p>The construction of the lift, new stairwells and associated walkways are to improve accessibility within the school.</p> <p>The arguments are supported as the proposed development are necessary additions to improve the facilities to the existing school.</p>
<ul style="list-style-type: none"> Would supporting the variation contribute to cumulative impacts? 	<p>The proposed development will not result in adverse cumulative, environmental or amenity impacts in the locality. The form and siting of the TAS building and separate additions to an existing building to incorporate a lift, are appropriate in the context of the locality.</p> <p>There is no public benefit served in this instance by insisting on strict compliance with the standard.</p>
The concurrence of the Secretary has been obtained.	<p>The concurrence of the Secretary can be assumed in accordance with the Department of Planning Circular PS 18-003 'Variations to development standards', dated 21 February 2018. The Secretary can be assumed to have given concurrence if the matter is determined by a Sydney District or Regional Planning Panel in accordance with the Planning Circular.</p>

Council comment:

The exception to a development standard request for building height is capable of support in both instances.

Part 5 Miscellaneous provisions

Section 5.21 Flood planning

Council's Stormwater officer has reviewed the application submission including a site specific flood study against the objectives and prior consent consideration requirements of the Section and returned a conditionally satisfactory referral.

Part 7 Local provisions – general

Section 7.1 Public utility infrastructure

The development is already serviced by electricity, water and sewerage services.

Conditions are proposed requiring approval from the relevant authorities for the connection of electricity, water and sewerage to the new buildings.

Section 7.2 Natural resource sensitivity – biodiversity

Part of the site affected by "Natural Resource Sensitivity – Biodiversity". Council's Environment officer has reviewed the application submission against the objectives and requirements of the section and returned a conditionally satisfactory referral.



Figure 5 Biodiversity Map

Section 7.4 Riparian lands

The site is identified in the Riparian Land Map as containing "riparian land". Whilst there are some works proposed within the riparian corridor, this is entirely located within the existing built area of the site.

Council's Environment Officer has reviewed the application. No additional considerations are required in this regard.



Figure 5 Riparian Land Map

Section 7.6 Earthworks

The proposal comprises minimal excavations required for the construction of the new building and other works. The earthworks are not expected to have a detrimental impact on environmental functions and processes, neighbouring uses or heritage items and features surrounding land. A fill platform is required for the TAS building to achieve floor levels associated with flood mitigation. A condition is proposed that any fill imported to the site be Virgin Excavated Natural Material.

2.2 SECTION 4.15(1)(A)(II) ANY PROPOSED INSTRUMENT

Not Applicable.

2.3 SECTION 4.15(1)(A)(III) ANY DEVELOPMENT CONTROL PLAN

2.3.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

A full assessment of the proposal against relevant DCP provisions is provided at **Attachment 3**.

2.3.2 WOLLONGONG CITY WIDE DEVELOPMENT CONTRIBUTIONS PLAN

The Development application proposes the construction of a technical and Applied Studies building directly related to its main function as an education facility.

The applicant has submitted a written exemption request against the payment of developer contributions as per Sections 15(l)and (k) of the City-Wide Contributions Plan 2024.

Council's Contributions officer has reviewed the submission and agreed to the exemption.

2.3.3 ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT (HOUSING AND PRODUCTIVITY CONTRIBUTIONS) ORDER 2023

The Housing and Productivity Contribution applies to development applications for new residential, commercial and industrial development (including complying development and State Significant Development) in the Greater Sydney, Illawarra Shoalhaven, Lower Hunter and Central Coast regions.

Contributions calculated and collected under the new system via the NSW Planning Portal will help deliver essential state infrastructure such as schools, hospitals, major roads, public transport infrastructure and regional open space. Local Developer Contributions are not impacted.

The Housing and Productivity Contribution is separate to the contributions that developers pay to councils for local infrastructure, such as local roads, drainage and local open space.

This scheme applies to development made on or after the commencement date of 1 October 2023. The application was lodged on 8 December 2023. The proposed development being for an Educational Establishment does not fall under the applicable development categories to be considered and as such the Housing and Productivity Contribution does not apply.

2.4 SECTION 4.15(1)(A)(IIIA) ANY PLANNING AGREEMENT THAT HAS BEEN ENTERED INTO UNDER SECTION 7.4, OR ANY DRAFT PLANNING AGREEMENT THAT A DEVELOPER HAS OFFERED TO ENTER INTO UNDER SECTION 7.4

There are no planning agreements entered into or any draft agreement offered to enter into under S7.4 which affect the development.

2.5 SECTION 4.15(A)(IV) THE REGULATIONS (TO THE EXTENT THAT THEY PRESCRIBE MATTERS FOR THE PURPOSES OF THIS PARAGRAPH)

Environmental Planning and Assessment Regulation 2021

61 Additional matters that consent authority must consider

Conditions of consent are recommended with regard to demolition works.

2.6 SECTION 4.15(1)(B) THE LIKELY IMPACTS OF DEVELOPMENT

The proposal has been assessed with regard to the likely impacts within the body of this report. Impacts are considered as mitigated and/ or managed in the context of the applicable planning controls and design response of the proposal.

There will be temporary amenity and environmental impacts associated with construction works. These impacts can be reasonably dealt with through the imposition of suitable conditions as provided for at **Attachment 4**.

2.7 SECTION 4.15(1)(C) THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT

Does the proposal fit in the locality?

The proposal is considered appropriate with regard to the zoning of the site and likely impacts on the locality and adjoining land are acceptable.

Are the site attributes conducive to development?

The proposal suitably responds to the site attributes.

2.8 SECTION 4.15(1)(D) ANY SUBMISSIONS MADE IN ACCORDANCE WITH THIS ACT OR THE REGULATIONS

Refer section 1.5 of this report.

2.9 SECTION 4.15(1)(E) THE PUBLIC INTEREST

Approval of the development is consistent with the public interest as the proposal is related to embellishment of an existing educational establishment in the locality. The application is not expected to have unreasonable impacts on the environment or the amenity of the neighbourhood. It is considered appropriate with consideration to the zoning and the character of the area is satisfactory with regard to the applicable planning controls. Internal and external referrals are satisfactory subject to appropriate conditions. Approval of the proposal is in the public interest.

3 CONCLUSION

The proposed development has been assessed with regard to the relevant prescribed matters for consideration outlined in Section 4.15 of the Environmental Planning & Assessment Act 1979.

The development is permissible with consent and has regard to the objectives of the zone. The exception to the height development standard of the Wollongong LEP 2009 has satisfied the requirements of Section 4.6 and is capable of support.

Matters raised in the submissions are considered to have been acknowledged and addressed or can be appropriately managed by conditions. Council's internal referral groups have provided conditionally satisfactory referral advice and DPE-Water have provided General Terms of Approval for work adjacent the watercourse traversing the site.

The proposed development has been designed appropriately given the constraints and characteristics of the site and will not result in significant adverse impacts on the amenity of the surrounding area. The development as proposed would not set an undesirable precedent and approval is in the public interest.

4 RECOMMENDATION

DA-2023/962 be approved subject to conditions provided at **Attachment 4**.

5 ATTACHMENTS

1. Plans – Architectural, Landscape and Stormwater
2. Applicant's Section 4.6 Request – Height of Buildings
3. Wollongong Development Control Plan 2009 Assessment
4. Conditions