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| JRPP No: | 2010SYE068 |
| DA No: | DA 265/10 |
| PROPOSED DEVELOPMENT: | 40 Ridge Street, North Sydney - St Mary's Church & School Demolition of the existing Marist Monastery building, construction of two-storey multi-purpose building with basement car parking for 42 vehicles and alterations and additions to the existing Presbytery building. |
| APPLICANT: | P.D Mayoh Pty Ltd Architects |
| REPORT BY: | Peter Le Bas, Consultant Town Planner & Lawyer Turnbull Planning International Pty Ltd |

Assessment Report and Recommendation

Attached: Site Plan
Architectural Plans
Conservation Planner's referral comments
Independent advice of the Department of Planning – Heritage Branch
Traffic Engineer's referral comments

ADDRESS/WARD: 40 Ridge Street, North Sydney (V)
St Mary's Church & School

APPLICATION No: DA 265/10

PROPOSAL: Demolition of the existing Marist Monastery building, construction of two-storey multi-purpose building with basement car parking for 42 vehicles and alterations and additions to the existing Presbytery building.

PLANS REF: Drawings numbered A.015 Issue F, A.016 Issue D, A.020 Issue H, A.092 Issue C, A.099 Issue G, A.103 Issue L, A.104 Issue F, A.105 Issue O, , A.153 Issue D, A.154 Issue B, A.165 Issue F, dated 25 June 2010 and A.093 Issue AA, A.094 Issue AA, A.095 Issue C, A.100 Issue V, A.101 Issue P, A.102 Issue P, A.150 Issue K, A.151 Issue J, A.152 Issue H, A.160 Issue P, A.161 Issue J, dated 15 July 2010, drawn by P.D Mayoh Pty Ltd, and received by Council on 16 July 2010.

OWNER: Trustees of the Roman Catholic Church for the Archdiocese of Sydney

APPLICANT: P.D Mayoh Pty Ltd Architects

AUTHOR: Peter Le Bas, Consultant Town Planner & Lawyer

DATE OF REPORT: 30 November 2010

DATE LODGED: 16 July 2010

ADDITIONAL INFO: 6 September 2010, 6 October 2010 & 1 November 2010

RECOMMENDATION Refusal

DESCRIPTION OF PROPOSAL

The subject application proposes the following elements:

(1) *Partial demolition and alterations and additions to the existing Presbytery building*

It is proposed to renovate the existing Presbytery building to improve the existing accommodation for the Parish Priests. Works proposed to the Presbytery building include:

- existing office space currently located on the ground floor level of this building will be relocated elsewhere on the site to allow increased residential accommodation to be provided;
- demolition of an existing rear component of the building;
- construction of a ground and first floor addition;
- internal modifications to the building; and
- fenestration changes.

(2) *Demolition of the existing Monastery building and erection of the a new multi-purpose building for the Church and Primary School*

The proposal includes demolition of the existing Monastery Building and construction of a two-storey multi-purpose building, with basement car parking for 42 vehicles. The new building is proposed to accommodate a Parish Centre, multi purpose hall at ground level and Parish offices at the first floor.

The proposed multi purpose hall will be primarily for used by the students of the primary school and for social functions for the Parish (both during the day and evening). The proposal also involves the provision of additional playground space, 'multi-purpose space'. The first floor of the building is proposed to an administrative centre for the Parish, Primary School and other local parishes.

The proposed underground car park will comprise one basement level with 42 car parking spaces. Access to the proposed car park will be via an entrance on the northern side of the proposed building.

STATUTORY CONTROLS

North Sydney LEP 2001

- Zoning – Special Uses – School & Church
- Item of Heritage - Yes
- In Vicinity of Item of Heritage – Yes (North Sydney Oval & St Leonards Park, 240-248 Miller Street)
- Conservation Area – No

- FSBL - No
- Environmental Planning & Assessment Act 1979
SEPP No. 1 Objection
SEPP No. 55 - Contaminated Lands
SREP (Sydney Harbour Catchment) 2005

POLICY CONTROLS

DCP 2002

DESCRIPTION OF LOCALITY

The site, owned by the Trustees of the Roman Catholic Church for the Archdiocese of Sydney, occupies an area of approximately 20,000sqm. The site occupies the land bordered by Ridge Street (to the south), Miller Street (to the east), Carlow Street (to the north) and Ridge Lane (to the west), with the exception of two terrace houses that front Miller Street towards the northeast corner of the site.

The southern portion of the site currently houses St Mary's Church, St Mary's Primary School, the existing Monastery and Presbytery buildings, and car parking for approximately 110 vehicles. The northern portion of the site houses Marist College, North Sydney (a high school), a day care centre and the conversion of private residences to accommodation for the Marist Brothers (which is the subject of a separate development application with Council). **The subject application relates only to works on the southern portion of the site. Figures 1 to 6, below, illustrates the existing development on the site.**

As the site is located immediately to the north of the North Sydney CBD, the site is surrounded by a mixture of land uses, including residential apartments, retail, community and recreational uses.



Figures 1 & 2 – The existing Marist Monastery building proposed for demolition



Figures 3 & 4 – The existing Presbytery building as viewed from Miller Street (left) and the rear section to be removed viewed from inside the site (right)



Figures 5 & 6 – The proposed vehicular egress point from the site to Miller Street (left) and the internal roadway within the site to be used to access the proposed basement car park (right)

RELEVANT HISTORY

The applicant was advised in correspondence dated 17 August 2010 that insufficient information had been provided to the following matters:

(1) *Demolition of the Monastery Building*

The subject building is located within the boundaries of the St Mary's church precinct, which is listed as a heritage item in Schedule 3 of NSLEP 2001. The Heritage Impact Statement lodged with the application indicates that the original part of the Monastery building has social and historic significance for its association with the Marist Brothers who have occupied the site continuously since 1888. The building also has aesthetic significance as a good and intact example of a Federation Romanesque building. The building clearly contributes to the significance of the site.

Pre-lodgement conservation advice on the possibility of demolition of the Monastery buildings was sought in November 2009. That advice stated *'should you wish to pursue demolition, we would require you to provide thorough research into its historical and*

social significance, and provide strong justification for the demolition. It would also be appropriate to demonstrate what the implications are if the original part of the building is retained, with only the later sections demolished.'

The Heritage Impact Statement lodged with the application does not provide the required detail and states simply that the retention of the Monastery building has been tested but does not satisfy the brief. No further details have been provided, and no structural report has been provided, as required by NSLEP 2001.

It is understood that the building is to be demolished in order to excavate for underground parking. It is not considered appropriate that a building of this significance be demolished to provide underground parking, when it would appear that alternatives exist on the site and a public car park is located across the road.

The documentation provided does not justify the demolition of the original part of the Monastery building. As such, objections to its demolition are raised on heritage grounds and it is recommended that the original section of the Monastery building be retained. If the applicant wishes to pursue its demolition, further justification of the need to demolish this building must be provided.

(2) Alterations and Additions to the Presbytery Building

The Presbytery building has been assessed as having individual significance as a *'substantial late-nineteenth century building, extensively altered which has been the presbytery for the adjacent church since built in 1885. It provides evidence of the church's long association with this site. The earliest building of the church/school complex at this site, though much enlarged.* It is proposed to undertake substantial alterations and additions to this listed building.

The heritage impact statement lodged with the application addresses only the impact of the demolition of the Monastery and the new Parish Centre building. It is requested that the applicant submit a detailed Heritage Impact Statement addressing the impact of the works to the Presbytery. This report should be in accordance with NSW Heritage Office Guidelines.

(3) Additional traffic impact assessment

The following concerns were raised by Council's Traffic Engineer in the preliminary assessment of the application:

"Provision of additional parking

No justification has been provided within the Traffic, Transport and Parking report, prepared by Transport and Traffic Planning Associates for the increase in parking spaces on the site. The North Sydney DCP 2002 outlines an objective in non-residential zones to "reduce on-site car parking due to the proximity of public transport. Contain traffic congestion and facilitate use of public and alternative transport modes including walking and cycling." There has been no reference to the Parking Schedule outlined in Section 9 of the North Sydney DCP 2002.

The fact that day parking is being leased out on a casual basis demonstrates that there is already some additional parking capacity on this site, over and above that required by the regular users of the site.

It is recommended that Council refuse to allow this net increase of 20 parking spaces unless it can be clearly demonstrated that the proposed increase in parking is in keeping with the North Sydney DCP 2002.

Traffic Generation

It is proposed to increase the amount of on-site parking by 20 parking spaces. The applicant has also advised that there may be some slight increase in traffic activity as a result of increased use of the new facility relating to Church events.

The applicant has stated "...this increase [in traffic activity] will be very minor and will have no perceptible impact on traffic in the area". None of the above traffic activity has been quantified. There has been no reference to the RTA's Guide to Traffic Generating Developments. It is therefore difficult to assess the likely traffic generation and its impact on the road network and surrounding residents.

It is recommended that the applicant be asked to provide further information on likely traffic generation and its impacts; otherwise this aspect of the DA cannot be adequately assessed.

School Pick-Up/ Drop-Off

Currently vehicles enter the site from Miller Street and exit via Ridge Street. The applicant has proposed swapping this arrangement such that vehicles enter via Ridge Street and exit via Miller Street. A parent, involved with the P&F for St Mary's Primary School has expressed safety concerns regarding this proposed change in arrangements. The applicant should provide further analysis of the likely impact of making these proposed changes, particularly regarding safety."

(4) Heritage & Traffic Updates

The applicant submitted additional supplementary heritage and traffic assessment reports to Council on 6 September 2010.

The applicant was further advised in correspondence dated 17 September 2010 that the additional heritage assessment was deemed to be unsatisfactory as it failed to identify that the Monastery building itself as an item of heritage significance pursuant to NSLEP 2001. It was advised that a Structural Engineer's report was required to be submitted to justify the demolition of an item of heritage pursuant to the provisions of Clause 48 of NSLEP 2001. The applicant provided the requested Structural Engineer's report on 6 October 2010.

The JRPP members were briefed on the application on 13 October 2010. At this meeting the JRPP Chairperson requested that the Department of Planning's Heritage Branch inspect the site and carry out an independent assessment of the proposal due

to the conflicting heritage opinion between Council's Conservation Planner and the Heritage consultant representing the applicant.

The applicant submitted a further heritage opinion report, prepared by NBRS & Partners to support the proposed works on 1 November 2010. The independent advice provided by Department of Planning's Heritage Branch was submitted on 23 November 2010.

REFERRALS

Heritage

As the St Mary's site is listed as a heritage item of local significance pursuant to NSLEP 2001 and as a result of the proposed scope of works involving demolition of a heritage item (the Monastery) and substantial alterations to another heritage item (the Presbytery), the application was referred to Council's Conservation Planner for assessment.

The following assessment has been provided on the proposal, with the complete referral comments of the Conservation Planner attached for reference:

“(1) Demolition of the Monastery Building

The Monastery building is located within the boundaries and curtilage of the St Mary's church precinct, which is listed as a heritage item in Schedule 3 of NSLEP 2001 and associated maps.

*NSLEP 2001 gives the following definition for **heritage item**:*

‘Heritage item means:

- a) land shown coloured orange on the map, including buildings, works, places, fixtures and trees on that land, or*
- b) any building, work, place, fixture, or tree listed in Schedule 3 (Heritage Items)’*

The applicant has stated, in the Heritage Impact Statement, that the building is not heritage listed, because it is not specifically noted in Schedule 3. This argument is not concurred with. The Monastery Building exists on an area coloured orange on the LEP maps. As such, it is considered to be a heritage item under the LEP definition

Furthermore, the Heritage Impact Statement lodged with the application indicates that the original part of the Monastery building has social and historic significance for its association with the Marist Brothers who have occupied the site continuously since 1888. The building also has aesthetic significance as a good and intact example of a Federation Romanesque building. The building clearly contributes to the significance of the site.

Pre-lodgement conservation advice on the possibility of demolition of the Monastery buildings was sought in November 2009. That advice stated

'should you wish to pursue demolition, we would require you to provide thorough research into its historical and social significance, and provide strong justification for the demolition. It would also be appropriate to demonstrate what the implications are if the original part of the building is retained, with only the later sections demolished.'

The Heritage Impact Statement lodged with the application does not provide the required detail and states simply that the retention of the Monastery building has been tested but does not satisfy the brief. Further details have been requested, but no further justification or demonstration of alternatives, or the impact of retaining the original section of the Monastery, has been provided.

LEP Clause 48 requires that a structural report be provided for applications involving the demolition of a heritage item. The submitted structural report concludes: 'It has been determined that the structure is generally in good condition and its condition is documented in the following photographs. VDM has concluded that, at the time of the inspection, no major issues concerning the buildings structural integrity are present.' As such, there is no structural requirement for the demolition of the building.

It is understood that the building is to be demolished in order to excavate for underground parking. It is not considered appropriate that a building of this significance be demolished to provide underground parking, when it would appear that alternatives exist on the site and a public car park is located across the road.

NSLEP Clause 48 (Heritage Items) states:

'(1) Heritage item objectives:

The specific objectives of the heritage item controls are to:

- a) prevent the demolition of heritage items*
- b) provide specific criteria to be considered when determining an application in respect of a heritage item*
- c) ensure heritage items are conserved and maintained'*

The documentation provided does not justify the demolition of the original part of the Monastery building, which is a heritage item. The proposal to demolish the listed building clearly goes against the objectives of NSLEP Clause 48

NSLEP Clause 48(5) relates to proposals involving the demolition of heritage items:

(5) Consideration of proposed development involving complete demolition of a heritage item

Consent must not be granted to development involving the complete demolition of a heritage item, until the consent authority has considered:

- (a) whether the heritage significance of the heritage item is insufficient to warrant its retention, and*
- (b) whether the heritage item is reasonably capable of conservation, and*
- (c) whether the heritage item is not in a structurally sound condition, and*
- (d) whether the character, design and aesthetics of any proposed replacement building or work and its relationship to the character of the surrounding buildings and works is appropriate.*

Assessing the application against these requirements, the following comments are made:

- a) The heritage significance of the Monastery building is demonstrated to be sufficient to warrant its retention*
- b) The heritage item is reasonably capable of conservation*
- c) The building is structurally sound*
- d) The character, design and aesthetics of the proposed replacement building is not appropriate to the character of the surrounding buildings, which are also heritage listed*

As demonstrated above, the proposal to demolish the Monastery building is not permissible under Clause 48 of the NSLEP 2001. Accordingly, strong objections to the demolition of the Monastery building are raised on heritage grounds and it is recommended that the original section of the Monastery building be retained.

(2) Proposed New Parish Centre Building

As discussed above, the demolition of the Monastery building is not supported and therefore the construction of any new building in its place is also not supported.

However, in the case that the demolition of the Monastery building ultimately be approved, an assessment of the proposed new building has been undertaken.

As noted above, NSLEP Clause 48 (Heritage Items) Part 5 relates to the consideration of development involving the complete demolition of a heritage item, stating, in part:

- (d) The character, design and aesthetics of the proposed replacement building is not appropriate to the character of the surrounding buildings, which are also heritage listed*

The proposed new Parish Centre is not considered to be appropriate to the character of the surrounding buildings, being the St Mary's Church, the St Mary's Presbytery and St Mary's Primary School, which are also listed as heritage items. Whilst the height and bulk of the new building are considered acceptable, the architectural character is not. The proposed building has a generic institutional character that does not reflect the significance of the heritage listed church site. A more appropriate solution would be for

a contemporary building that reflects the ecclesiastical character of this precinct, making reference to the character of the surrounding buildings, which are of a very high significance strongly associated with the development of the Catholic Church in northern Sydney.

The design is inconsistent with the intent and specific controls of NSDCP Section 8.8 (Heritage Items and Conservation Areas) h, l, l, m, and o.

As such, objections to the proposed new building are raised on heritage grounds, due to its non-compliance with NSLEP and NSDCP, and its detrimental impact on the surrounding heritage items. The building is not appropriate to the character of surrounding buildings and therefore not permissible under the NSLEP.

(3) Alterations and Additions to the Presbytery Building

The Presbytery building has been assessed as having individual significance as a 'substantial late-nineteenth century building, extensively altered which has been the presbytery for the adjacent church since built in 1885. It provides evidence of the church's long association with this site. The earliest building of the church/school complex at this site, though much enlarged'. It is proposed to undertake substantial alterations and additions to this listed building.

The heritage impact statement lodged with the application addressed only the impact of the demolition of the Monastery and the new Parish Centre building. The applicant was requested to submit a detailed Heritage Impact Statement addressing the impact of the works to the Presbytery. This was subsequently submitted and a detailed inspection of the building was undertaken on 22 September 2010.

It is noted that the applicant's heritage consultant has raised a number of major concerns with the proposal in his Heritage Impact Statement, and recommended changes to the design which have not been reflected in the application, as submitted. The Heritage Impact Statement does not support much of the proposed works.

The proposed works at the presbytery have not respected the heritage significance of the building, as noted in the applicant's own Heritage Impact Statement. The proposal involves unnecessary removal of original significant fabric and large areas of internal reconfiguration. In some of the most significant rooms, such as the chapel, it is proposed to remove original detail and fabric, in order to convert the rooms to accommodation. Original fireplaces, doors, ceilings, joinery, and decorative elements are required to be removed.

The proposed new addition has not been designed in such a way as to minimise the impact on the heritage item and insufficient details have been submitted. Although insufficient detail has been lodged to properly assess the new addition, it would appear that the architectural language of the extension does not reflect the heritage significance of the building.

Further, Lucinda Varley (also a Conservation Planner employed by Council) has made detailed comments regarding the fire safety upgrade of the building and its potential

heritage impact, noting that 'The submitted documentation for the fire upgrade of the Presbytery by Environet Consultancy Pty Ltd does not adequately document the proposed changes and the impact to the heritage building.' A copy of this assessment is attached for reference.

The proposed works to the St Mary's Presbytery building are not supported on heritage grounds, due to the excessive removal of original and significant fabric. The works, as proposed, will have a major detrimental impact on the heritage item.

It is recommended that the application either be refused, or that the applicant be requested to re-think the design of the works to have far greater regard for the significance of the building. At a minimum, the recommended amendments of the applicants own Heritage Impact Statement must be incorporated into the design. It is recommended that the applicant's heritage consultant closely guide the re-design, to ensure that the works have minimal impact on the significance of the item, as required by Council controls."

Planning comment: It is clear that there is unresolved heritage aspects of the proposal, which are the determinative factor of this application. At the request of the JRPP Chairperson, the Heritage Branch of the Department of Planning inspected the site to provide independent advice to the Panel on the proposal. A copy of this assessment is attached for reference, with the conclusions of the Heritage Branch as follows:

"The Heritage Branch considers that the HIS supplementary statement is inadequate to allow a proper assessment of the heritage significance of the site. Consequently, the Branch is unable to assess the impacts of the proposed development due to the following:

The summary of this analysis is as follows:

☐ *The heritage significance of the Monastery and Presbytery, and their association with the other buildings in this complex (Church) has not been appropriately investigated. Any comment on the heritage significance of any part of the building or site is therefore not adequately justified.*

☐ *It is unknown if the proposed works have, or do not have, an impact on heritage significance given the heritage significance has not been adequately investigated."*

It is therefore concluded that insufficient information has been lodged and used in the preparation of the application to properly assess the potential impacts of the proposed works on the heritage significance of the Presbytery building and site as a whole. Furthermore, the proposal has failed to demonstrate that the demolition of the Monastery can be supported in the first instance. This advice of the Heritage Branch is consistent with the advice provided to the applicant and owner's of the site from the pre-lodgement stage of the application and throughout the assessment of the subject application.

Traffic & Parking

As was noted in the history section of this report, the application as was originally lodged was not supported by Council's Traffic Engineer due to insufficient assessment provided. A copy of the referral comments of Council's Traffic Engineer are attached for

reference.

As a response a further supplementary traffic report, prepared by the applicant's Traffic Engineers was submitted to Council on 6 September 2010.

Despite the provision of this additional information, Council's Traffic Engineer has concluded the following:

"Parking Spaces

The letter from TTPA, dated 23 August 2010 goes some way to addressing the number of parking spaces. However, there is still little clarity on the various uses of this parking throughout the day and week.

As per my earlier memo, dated 28 July 2010, some of the parking is currently utilised for casual commuter parking. It is unclear if these types of casual parking arrangements will continue in the proposed development. Parking used for multiple purposes impacts on traffic generation rates.

Traffic Generation

The letter from TTPA, dated 23 August 2010 still does not provide clarity on likely traffic generation associated with the proposed development.

The RTA's Guide to Traffic Generating Developments outlines that where the rates provided in the Guide are not appropriate, then surveys of existing developments similar to the proposal can be undertaken and comparisons may be drawn. As per my earlier memo, without any quantified data it is difficult to assess the likely traffic generation and its impact on the road network and surrounding residents. This DA cannot be adequately assessed without this traffic generation data.

Similarly, proposed changes to the pick-up/ drop-off arrangements for the school have not been quantified in terms of traffic pattern changes.

Recommendation

It is difficult to assess the impact of this development based on the information provided so far. It is therefore recommended that this application be refused until such time as the parking and traffic generation issues can be adequately assessed."

SUBMISSIONS

Basis of Submissions

- Works and disruption during construction
- Concert hall and ventilation shaft from car park will be approx. 10 metres from dwelling
- Concerns about noise levels and carbon monoxide pollution
- Multipurpose hall can be used for Parish events and impact on

- quiet enjoyment of property
- Architects have not taken into account the adjoining residential complex
- Request a public forum with information provided by architects
- Fear noise pollution from multipurpose hall on weekends and evenings
- Question the need for 42 car parking spaces
- Quality of life will be directly affected during construction and after completion
- Object to car park ventilation shaft so close to residential development
- Exhaust fumes and pollution will affect dwellings, balconies and gardens
- Extraction fans and other noise generating equipment
- Noise generated by multi-purpose hall
- Object to the area becoming “public” space as weekend use will impact on weekend routine and lifestyle
- Object to proposed playground along Ridge Lane
- Object to any playground noise outside school hours
- Noise related to the gathering of people along Ridge Lane
- Proposal contravenes DCP 200 “Civic Neighbourhood” which prohibits large scale development
- Loss of sunlight
- Overshadowing
- Loss of privacy
- Object to removal of existing trees
- Object to increased traffic
- Object to disruption during construction
- Object to access via Ridge Lane
- Request a dilapidation survey prior to works
- Hours of work should be enforced
- DA discussed at Precinct meeting of 3 August
- Increase in parking spaces from 110 to 130 to be supported
- That parking spaces not be allowed to be rented out
- That St Mary’s not be allowed to demolish the Monastery
- Should demolition be approved, a full photographic record should be taken of the process for historical records
- That initiatives be demonstrated that the building will have a small environmental footprint
- Object to location of underground car park ventilation shafts
- Object to exhaust fumes and pollution
- Object to extraction fans or other noise generating equipment
- Object to noise of 42 additional cars
- Object to location of Parish Centre/ Multi-purpose Hall and excessive noise likely
- Object to land becoming “public” space
- Object to proposed playground
- Object to playground noise on weekends
- Object to location and height of buildings and loss of sunlight

- Object to removal of mature trees
- Object to increased traffic
- Object to noise and disruption that will be generated by the proposed demolition and clearance of the site and excavation
- Object to further disruption due to construction
- Object to subterranean works
- Insist on dilapidation reports
- Object to usage of Ridge Lane to access the site
- Object to location of underground car park ventilation shafts
- Object to exhaust fumes and pollution
- Object to extraction fans or other noise generating equipment
- Object to noise of 42 additional cars
- Object to location of Parish Centre/ Multi-purpose Hall and excessive noise likely
- Object to land becoming “public” space
- Object to proposed playground
- Object to playground noise on weekends
- Object to location and height of buildings and loss of sunlight
- Object to removal of mature trees
- Object to increased traffic
- Object to noise and disruption that will be generated by the proposed demolition and clearance of the site and excavation
- Object to further disruption due to construction
- Object to subterranean works
- Insist on dilapidation reports
- Object to usage of Ridge Lane to access the site
- Proposal will increase noise and pollution, particularly in the evening with the construction of a large multipurpose hall
- Car park ventilation shafts will be very close to property and cause fumes and pollution
- Location and height of building will cast shadows over residences
- Overdevelopment will result in reduced quality of life
- Noise and disruption during construction
- Continued blocking of Ridge Lane during construction
- Request a dilapidation survey
- Residential complex borders the subject site
- Quality of life will be direct and adversely affected during construction and on completion
- Location of underground car park ventilation shafts and extraction fan only 10 metres from apartment block
- Carbon monoxide and pollution will enter gardens, balconies and homes
- Could ventilation be placed on Miller Street side of car park
- Object to noise resulting from car park
- Object to location of Parish Centre/ Hall
- Impinge on privacy with windows overlooking
- Noise pollution outside school hours
- Impact an area currently very quiet on the weekends
- Could the hall be located at the front on the site, near Miller

Street

- Object to removal of mature trees along Ridge Lane
- Increased traffic
- Noise and disruption as a result of construction
- Object to subterranean work
- Insist on dilapidation survey
- Object to use of Ridge Lane during construction
- My wife has recently undergone major heart surgery and suffers from respiratory problems which will be made worse by dust and pollution
- Use of Ridge Lane by construction vehicles is unsafe for residents of Stanton
- During the construction phase noise and air pollution will affect family health, particularly children
- Price of property will be detrimentally affected
- Property will directly face the car park
- The noise will affect rest time
- Ridge Lane is not suitable for traffic
- Danger to people/ children who travel through Ridge Lane
- Exhaust fumes will cause respiratory problems
- Dust that escapes into the air through the excavation will affect my family due to their severe skin allergies
- The dust will also prove a problem to asthmatics
- Construction workers constantly violate the operating hours i.e. St Mary's Primary School
- Concerns relating to ventilation from car park, noise from car park and noise from use of the hall
- Design of the hall could be reconsidered to reduce proximity to the Stanton
- Design of car park could be reconsidered to ventilate away from the Stanton
- What agreement/ conditions will be placed on builder to prevent ongoing problems with work outside approved hours and parking in Ridge Lane
- How will noise be controlled in regards to use of the hall and what restriction of hours will be placed on the hall
- Request a dilapidation report

CONSIDERATION

The relevant matters for consideration under Section 79C of the *Environmental Planning and Assessment Act 1979*, are assessed under the following headings:

NSLEP 2001 COMPLIANCE TABLE

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| STATUTORY CONTROL – North Sydney Local Environmental Plan 2001 |
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| Site Area – approx 20,000m ² | Proposed | Control | Complie s |
|--|-------------|--|--------------|
| Special Uses Clause 34* | | | |
| Building Height (Cl. 17) (max) | 8.5m | 8.5m | YES |
| Building Height Plane (Cl.18) (only applicable on boundary adjoining the residential zone) • East Elevation | No breach | 45° height plane at 3.5m above boundary | YES |
| Landscape Area (Cl. 20) (min) | Approx. 33% | 60% | NO |

* Pursuant to Clause 34, the site must adopt the most restrictive development standards of the adjoining zones, which for this site is the Residential A2 zone.

DCP 2002 Compliance Table

As NSDCP 2002 contains no specific controls for either places of worship or the Special Use zone, this site has been assessed below against the development controls contained within Section 6 of NSDCP 2002 for mixed-use development. The mixed use controls are considered most appropriate for this site and its surrounding uses.

| DEVELOPMENT CONTROL PLAN 2002 | | |
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| | <i>complies</i> | <i>Comments</i> |
| 6.1 Function | | |
| Diversity of activities, facilities, opportunities and services | Yes | The uses and activities currently located and undertaken on this site would be continued as a result of the proposed works. |
| Maximum use of public transport | Yes | The site is accessible via public transportation, being located on several bus routes. It is considered that the site is easily accessible for users of the site (both parishioners and school children). Whilst parking is provided on the site, and additional car parking is proposed as part of the subject application, the site is located in close proximity to the public car park in Ridge Street and on-street parking in streets surrounding the site. |
| 6.2 Environmental Criteria | | |
| Clean Air | Yes | Satisfactory, subject to the imposition of appropriate conditions if any approval is granted. |
| Noise and Acoustic Privacy | No | The proposed location of recreational facilities (being the new playground) is likely to exacerbate acoustic privacy issues to adjacent residents. |

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| | | The out of standard business hours use of the multi-purpose hall and facilities has the potential to result in adverse acoustic impacts, however, could be addressed through the imposition of appropriate conditions if consent is granted to the application. |
| Visual Privacy | Yes | No objection is raised to the proposed development with regard to loss of visual privacy to adjacent residential uses. |
| Solar access | Yes | No objection is raised to the proposal with regard to material overshadowing of neighbouring properties. |
| Views | Yes | The proposed development is not considered to result in the loss of any iconic views from either the public domain or surrounding properties. |
| 6.3 Quality built form | | |
| Context | No | The proposal has been assessed as having a detrimental impact in terms of loss of an intact heritage item and the unsubstantiated loss to the heritage fabric of the locality. |
| Public spaces and facilities | No | This is a gateway location and existing landscaped elements on Miller Street outside St Mary's Church are proposed to be compromised. This will adversely impact upon the relationship of the Ridge Street/ Miller Street intersection with the public domain in this prominent location |
| Streetscape | No | The area fronting Miller Street in the vicinity of St Mary's Church will be adversely impacted in streetscape terms |
| Setbacks | Yes | No objection is raised to the proposed setbacks of the proposed development. |
| Building design | Yes | The proposed design of the development is satisfactory for its purpose, however, does not exhibit design excellence. |
| 6.4 Quality urban environment | | |
| Accessibility | Yes | Satisfactory, subject to the imposition of conditions if any consent is granted. |
| Car parking | No | Assessment of the application has noted that car parking is currently provided on site for activities unrelated to its use, and any consent of additional parking |

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| | | should specify that the proposed parking may not be used as a commercial car park. |
| Bicycle storage | Yes | Whilst no formal provision, this can be catered to given site configuration |
| Vehicular access | No | Vehicular entry and exit arrangements have not been satisfactorily resolved. Insufficient information was provided to allow for a detailed traffic generation analysis, although this information was requested from the applicant during the assessment of the application. |
| Garbage Storage | Yes | Satisfactory |
| 6.5 Efficient use and management of resources | | |
| Waste management | Yes | Satisfactory |
| Stormwater and water management | Yes | Satisfactory |

NORTH SYDNEY LEP 2001

1. Permissibility within the zone

The proposed development is permissible within the Special Use zone, as it pertains to the existing church and school uses on the site.

2. Specific aims of NSLEP 2001

Pursuant to Clause 3(c) of NSLEP 2001, the relevant aims and objectives for non-residential development are as follows:

- (i) *maintain a diversity of employment, services, cultural and recreational activities, and*
- (ii) *ensure that non-residential development does not adversely affect the amenity of residential properties and public places, including adverse affectation by reason of the use, design, bulk, scale or appearance of the development, or the traffic generation and parking associated with the development, and*
- (iii) *maintain waterfront activities and ensure that these activities do not adversely affect local amenity and environmental quality, and*
- (iv) *minimise adverse effects of all permitted non-residential development and non-conforming uses or development*

In this case the development is considered to be inconsistent with objective (ii) and (iv). The development will adversely impact upon the amenity of residential properties by reason of design and use of elements of the development. Furthermore, there are likely to be unacceptable impacts caused by traffic generation and parking associated with the development. The appearance of the site will be adversely impacted by virtue of the proposed treatment along the gateway frontage in Miller Street and the removal of important landscaping elements.

3. Zone Objectives

The particular objectives of the Special Use Zone is as follows:

- (a) identify land on which special land uses are carried out, and*
- (b) minimise the impact of the use of that land on adjoining land.*

Whilst the proposal is permissible within the zone, insufficient information has been lodged by the applicant to justify that the proposal can occur without adverse impacts to the wider locality in terms of traffic and loss of or impact upon local heritage. It is therefore considered that the proposal is inconsistent with the objectives of the zone.

4. Buildings in the Special Uses zone

Pursuant to Clause 34 (2) of NSLEP 2001, the following objectives apply to proposed development within the Special Use zone:

- (a) ensure that buildings within the zone are similar in type, height, bulk and scale to surrounding buildings, and*
- (b) minimise the adverse effects of development on surrounding residential development.*

The proposal is consistent with the objective (a), however not consistent with objective (b). In such a context the development will adversely impact the amenity of residential properties by reason of the design and use of certain elements of the development.

Pursuant to Clause 34 (3) of NSLEP 2001 buildings in the Special Uses zone must not be erected unless:

- “(a) the building is consistent with the objectives and permissible uses that apply to the land adjoining the site and land directly across the road from a site;*
- (b) the building complies with the relevant development standards, for the particular type of building, that apply to the land adjoining the site, and land directly across a road from the site.”*

As the site is bounded by the residential zonings north and west, the development standards for the Residential A2 zone are applicable to the subject site (being the most restrictive of neighbouring zonings).

With regard to the new building works, the provisions of Clauses 17 (building height), 18 (building height plane) and 20 (landscaped area) are applicable and the compliance of the proposal with these development standards is discussed below:

Height & Building Height Plane

The proposed works comply with both the height control and building height plane of Clauses 17 and 18 of NSLEP 2001.

Landscaped Area

As the site adopts the development standards of the residential zone, the landscaped area development standard is applicable in this instance. Based on a site of this area, Clause 20 of NSLEP 2001 stipulates a landscaped area for the site of 60%.

The proposed development results in the site having a 'landscaped area' of approximately 33%, which remains non-compliant with Clause 20 of NSLEP 2001.

The applicant has not submitted a SEPP No. 1 Objection to the continued non-compliance of the site with this development standard pursuant to Clause 34, however, in the event that the Panel determines to approve the application, the requisite documentation could be submitted.

5. Heritage

The proposal is not supported on heritage grounds and this is a determinative factor of this application. The provision of insufficient and inadequate information has been detailed within the referral section of this report and within the attached comments of Council's Conservation Planner and the Heritage Branch of the Department of Planning.

Despite the provision of insufficient information, Council's Conservation Planner has concluded that demolition of the **Monastery** building is not permissible pursuant to Clause 48 of NSLEP 2001 and that 'strong' objection is raised to its demolition are raised on heritage grounds. Furthermore the proposal for alterations to the **Presbytery** building is currently inadequate to make a proper assessment of impact in a heritage context. This assessment is concurred with by the writer.

Clause 43 of NSLEP 2001 provides that the heritage provisions prevail over all other provisions of the plan to the extent of any direct or indirect inconsistency. Given this and the clear failure of the proposal to meet the heritage provisions of the LEP, the proposal must likewise fail.

6. Excavation of Land

A geotechnical assessment was submitted with the development application. The assessment does not however attach details of borehole locations etc and appears incomplete.

7. Contaminated Land

A preliminary assessment reveals that the site does contain contaminants from imported fill material. The consultants consider that remediation will be necessary. No detail relating to borehole locations is provided.

SEPP 55 and Contaminated Land Management Issues

Further information is required to permit a proper assessment. The report by the relevant consultant has not been submitted in complete form.

DEVELOPMENT CONTROL PLAN 2002

Relevant Planning Area (North Sydney Centre Planning Area)

The application has been assessed against the relevant controls in DCP 2002. The property is located in the North Sydney Planning Area and specifically the Civic Neighbourhood.

Function

The proposal facilitates continuation of educational and cultural purposes.

Environmental Criteria

Views are not affected.

Quality Built Form

There will be a detrimental impact in terms of loss of an intact heritage item (the Monastery), resulting in a loss to the heritage fabric of the locality.

Alterations to the Presbytery will be likely to result in loss of internal heritage significant elements in respect of the existing building.

The proposal results in loss of landscaping in a location at the gateway to North Sydney and this aspect needs further examination by the applicant. Some urban cohesiveness is lost as a result of the loss of this existing landscaping as it fronts Miller Street.

The site planning as regards the new Parish Centre and the position of proposed additional playground area is likely to exacerbate existing impacts in terms of the proximate relationship with adjoining residential properties on the west side of Ridge Lane.

Car parking

The proposal to provide for a net increase of 20 parking spaces is contrary to provisions in the North Sydney DCP 2002. The applicant has not properly addressed the issue of traffic generation and its impacts. In such a context it is likely that changing the access arrangements such that vehicles enter via Ridge Street and exit via Miller Street will result in additional traffic congestion

ALL LIKELY IMPACTS OF THE DEVELOPMENT

All likely impacts of the proposed development have been considered within the context of this report.

NORTH SYDNEY DRAFT LOCAL ENVIRONMENTAL PLAN 2009

In terms of heritage, it is to be noted that the DLEP 2009 as it is presently drafted, currently incorporates the subject site, as a whole, as an heritage item.

ENVIRONMENTAL APPRAISAL CONSIDERED

| | | |
|----|--|-----|
| 1. | Statutory Controls | Yes |
| 2. | Policy Controls | Yes |
| 3. | Design in relation to existing building and natural environment | Yes |
| 4. | Landscaping/Open Space Provision | Yes |
| 5. | Traffic generation and Carparking provision | Yes |
| 6. | Loading and Servicing facilities | Yes |
| 7. | Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.) | Yes |
| 8. | Site Management Issues | Yes |
| 9. | All relevant S79C considerations of Environmental Planning and Assessment (Amendment) Act 1979 | Yes |

CLAUSE 14 NSLEP 2001

Consistency With The Aims Of Plan, Zone Objectives And Desired Character

The provisions of Clause 14 of NSLEP 2001 have been examined.

The development is inconsistent with the specific aims of the plan and/or the objectives of the zone and/or the objectives of the controls as outlined in this report and as such, consent must not be granted.

SUBMITTORS CONCERNS

Council's notification of the proposal has attracted eleven (11) submissions raising particular concerns about noise levels, pollution from the proposed car park, proximity to residential dwellings, proposal contrary to DCP 2002, loss of solar access, removal of trees and demolition of the Monastery. Submitter concerns are addressed in the body of this report.

CONCLUSION

This site is in a prominent location at the gateway to the North Sydney CBD. The scheme submitted in this application has inadequately dealt with potential externalities and insufficient consideration has been given to impacts to adjoining residential

occupiers.

Whilst the quantum of additional development for the land is not unreasonable, it is considered that this proposal reflects inappropriate and generally poorly thought through site planning. This is reflected in the proposed location of certain elements of the development, including the enlarged children's playground at the periphery of the property. The location of existing playground area is not sufficient justification for repeating what is considered to be a poorly located site element. Surely sound planning dictates that some spatial separation should be provided in respect of elements likely to cause amenity impacts to nearby residential occupiers.

The applicant has failed to demonstrate that the proposal will not give rise to serious traffic impacts in terms of proposed new vehicular access arrangements. Furthermore, the proposal provides parking in excess of that permitted under the relevant planning control.

Lastly, and given determinative weight by Clause 43 of NSLEP 2001, the proposal fails to adequately justify the removal and unsympathetic alteration to heritage items identified pursuant to NSLEP 2001.

RECOMMENDATION

PURSUANT TO SECTION 80 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

- A. **THAT** the Joint Regional Planning Panel resolve to refuse development consent to Development Application No. 265/10 (2010SYE068) for development on land at 40 Ridge Street North Sydney, for the following six (6) reasons:-
1. The proposed demolition of a heritage item (the Monastery) is inconsistent with the objectives of Clause 48 of *North Sydney Local Environmental Plan 2001* to ensure the retention of heritage items. Furthermore, insufficient information has been submitted to justify the demolition of a heritage item (the Monastery) pursuant to the requirements of Clause 48;
 2. The proposed works to the Presbytery are inconsistent with Clause 48 of *North Sydney Local Environmental Plan 2001* as these works will result in the loss of original and significant fabric from the building;
 3. The proposed development is inconsistent with the Clause 3(c) of *North Sydney Local Environmental Plan 2001* and with the zone objectives of the Special Use zone as listed at Clause 14 of *North Sydney Local Environmental Plan 2001* in that the proposal will result in adverse amenity impacts to adjoining residential properties;
 4. The proposed development is non-compliant with the landscaped area development standard pursuant to Clause 34(3)(b) of *North Sydney Local Environmental Plan 2001* and insufficient documentation has been submitted to allow variation to this standard and the proposed works will result in an

appropriate landscaped treatment to the street;

5. The proposed new Parish Centre is inconsistent with Section 8.8(h) – Form, massing and scale, (i) – Roofs, (l) – Windows & Doors, (m) – Materials & colours and (o) - Details of *North Sydney Development Control Plan 2002* as the proposed development is out of architectural character with surrounding buildings;
6. The proposed development will result in an increase in parking provision contrary to DCP 2002 and may result in potential impact in terms of traffic movements to and from the site.

| | |
|---|-------------------------------------|
| PETER LE BAS | STEPHEN BEATTIE |
| CONSULTANT TOWN PLANNER AND LAWYER | MANAGER DEVELOPMENT SERVICES |
