

JRPP No:	2012SYE071
DA No:	DA 205/12
PROPOSED DEVELOPMENT:	128 Miller Street, North Sydney Alterations and additions to existing school including construction of new multi-level performing arts building, demolition of existing structures, re-use of existing buildings and landscaping works.
APPLICANT:	Farrell Coyne Projects
REPORT BY:	George Youhanna, Executive Planner, North Sydney Council

Assessment Report and Recommendation

Attached: SEPP 1 Objections

EXECUTIVE SUMMARY

The subject development application seeks consent for partial demolition of O'Regan House and other minor structures on the Monte Sant' Angelo school campus and the construction of a new purpose built performing arts building (referred to as the "Arts and Creativity Common") and the use of O'Regan House for arts and music education, with associated landscaping works. The Arts and Creativity Common building comprises a new multi-level space to connect classrooms, the theatre, and the O'Regan building and provide a foyer to the theatre, four new music classrooms, eight small music studios over two levels, a 300 seat theatre space with back of house facilities and technical teaching areas, and a large ensemble practice studio. It is not proposed to increase student or staff numbers.

The land is owned by the Sisters of Mercy and is legally described as Lots 1-8 DP262534, Lots 4-8, 10 and 11 DP5030, Lot A and B DP 339358 and Lot 1 DP 780403. The site is an irregular shaped lot that occupies the majority of the street block, bordered by McLaren Street to the north, Miller Street to the east, Berry Street to the south and Angelo Street to the west. The site has a frontage of 45m and 61m to McLaren Street to the north (on either side of the McLaren Hotel), a frontage of 165m to Miller Street to the east, a frontage of 70m to Berry Street to the south and a frontage of 182m Angelo Street to the west. The site has an overall area of approximately 1.9 hectares. The proposed works are located in the north-eastern corner of the College site, at the rear of O'Regan House within the rear of Nos. 29 and 31 McLaren Street.

Council's notification of the proposal has attracted no submissions.

In summary, the application is recommended for approval subject to conditions of consent.

DESCRIPTION OF PROPOSAL

Demolition:

- Demolish part of the O'Regan building on the western side with the new building to be integrated and connected to the O'Regan building.
- Demolition of a number of existing structures including metal workshop shed to the western side of the O'Regan building, enclosed covered walkway and a single storey infirmary building in front of the Chapel.
- Demolition of two (2) of the existing covered awnings and low retaining walls to existing car park.

Excavation:

- Approximately 9,000m³ of materials to be excavated on the site to a depth of approximately 10m, to construct the proposed theatre and associated facilities, including approximately 7,000m³ of rock.
- A geotechnical report accompanies the DA which provides details of the geological conditions on the site.
- Disposal of fill as per the Waste Management Plan

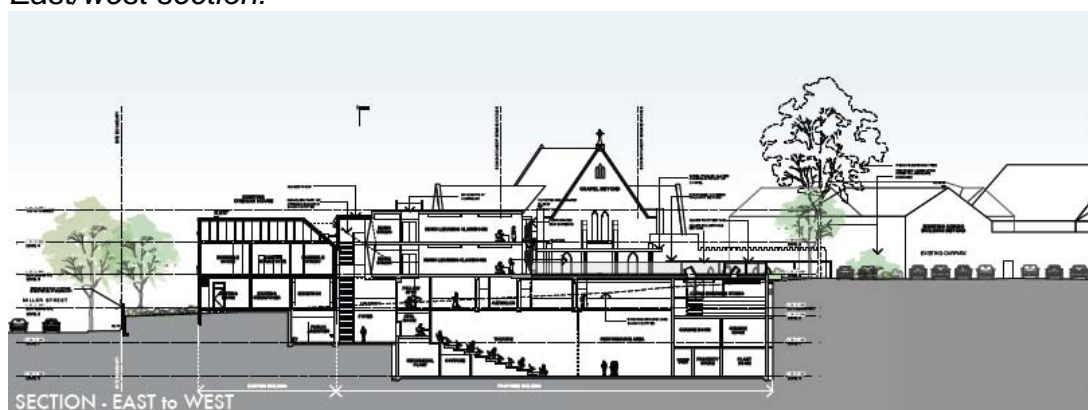
New Arts and Creativity Common building:

- New multi-level space to connect classrooms, theatre, and the O'Regan building and provide a foyer to the theatre;
- 4 New music classrooms and 8 small music studios over two levels;
- Below ground beneath a landscaped courtyard roof, a 300 seat black box theatre space, with back of house facilities and technical teaching areas, and large ensemble practice studio;
- Landscaped entry from the main Miller Street driveway.

Landscaping Works:

- Provision of a landscaped courtyard above ground level on the western side on the roof of the new building at the rear of the O'Regan building;
- Provision of access to the new building through the "40 acre wood" landscaped area;
- Improve the "40 acre wood" landscape area to the southern side of the O'Regan building through the provision of a series of landscape walls leading towards the entry to the building at lower ground level.
- A series of steps and seating areas at both sides of the landscape walls to create an outdoor break out learning spaces and lunch gathering spaces for the students.
- Provide new private gardens to the rear of Bermesday, Coolock and Stormanston Houses to link with the proposed landscaped court, car park and the Chapel; and
- Provide seating and steps adjacent to the Congo building to create an outdoor learning space as well as linking the congregation to the Chapel.

East/west section:



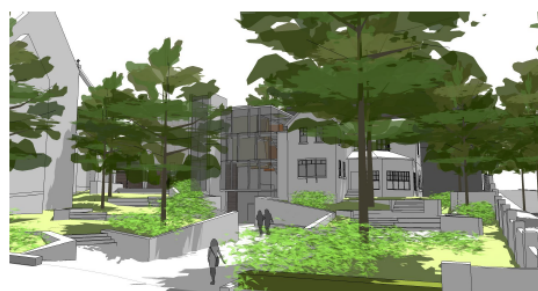
North elevation:



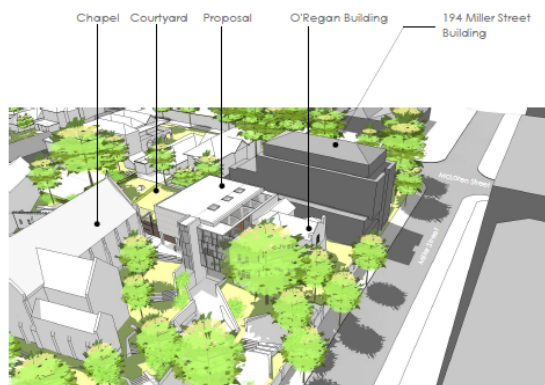
Perspectives:



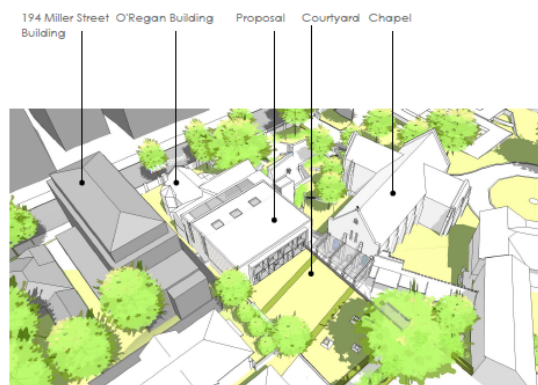
VIEW FROM STAIR



VIEW FROM MAIN ENTRY



AERIAL VIEW



AERIAL VIEW

STATUTORY CONTROLS

North Sydney LEP 2001

- Zoning – Special Uses Convent School and Residential B
- Item of Heritage – Yes (O'Regan Building)
- In Vicinity of Item of Heritage – Yes
- Conservation Area - Yes (McLaren Street)

Environmental Planning & Assessment Act 1979

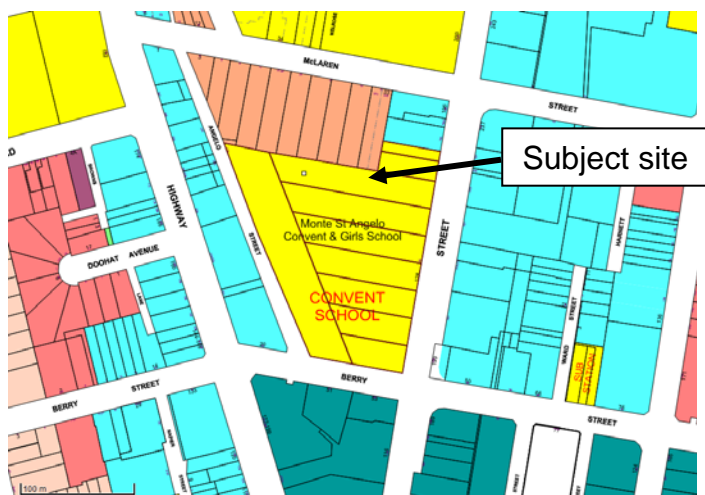
SEPP No. 1 Objection

SEPP No. 55 - Contaminated Lands

SEPP (Infrastructure) 2007

Sydney Harbour Catchment REP and DCP

Draft North Sydney LEP 2009



POLICY CONTROLS

DCP 2002

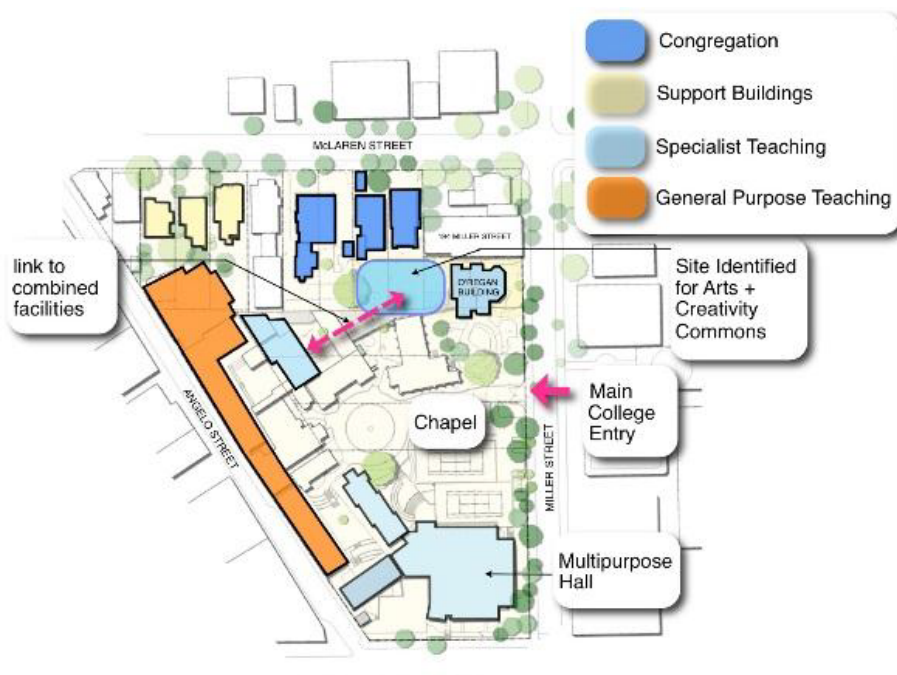
CONSENT AUTHORITY

As this proposal has a Capital Investment Value (CIV) of greater than \$5 million (\$15m nominated on development application) the consent authority for the development application is the Joint Regional Planning Panel, Sydney East Region (JRPP).

DESCRIPTION OF SITE AND LOCALITY

The proposed works are located on the following land within the Monte Sant' Angelo School site:

- Lots 5, 6 and 7 DP 262534
- Lots 4, 5 and 6 DP5030
- Lot 1 DP 780403



The proposed works are located in the north-eastern corner of the College site, at the rear of O'Regan House to the north of the Chapel building within the rear of Nos. 29 and 31 McLaren Street. The works are proposed within the area to the south of O'Regan House, east of the Chapel in an area dominated by trees and known within the College as "40 Acre Wood".

This area comprises the rear of O'Regan House, the metal service shed and associated bitumen car park, bitumen car park at the rear of 31 McLaren Street used by the Sisters of Mercy maintenance staff, the colonnade connecting O'Regan House to the Chapel, the infirmary building and the grass rear garden of No. 29 McLaren Street. Vegetation within this area includes five trees which comprise a Weeping Lilli Pilli, Avocado, Lacebark tree and a Jacaranda tree. Details of the existing vegetation on site is provided in the Arborist Report.

The Monte Sant' Angelo Mercy College site is bounded by McLaren Street to the north, Miller Street to the east, Berry Street to the south and Angelo Street to the west. The college site is adjoined by a four storey commercial building at No.194 Miller Street, to the north-eastern part of the campus. Surrounding development includes North Sydney Council to the north, mixed use and commercial buildings to the east, CBD commercial buildings to the south and mixed use and commercial development to the west.

RELEVANT HISTORY

A pre-lodgement meeting for the proposal was held on 25 May 2012, involving the proponents and Council staff. The form of development proposed was very similar to that sought under the current proposal. The advice provided at the pre-lodgement meeting, particularly in relation to heritage, design and landscaping has been incorporated into the current application.

REFERRALS

Roads & Maritime Services

The RMS has provided the following comments:

I refer to your letter dated 19 July 2012 with regard to the abovementioned development proposal, which was referred to Roads and Maritime Services (RMS) for comment under the State Environmental Planning Policy (Infrastructure 2007).

RMS has reviewed the application and provides the following advisory comments:

1. All structures and works are to be clear of Miller Street road reserve (unlimited in height or depth).
2. All construction activity associated with the proposed development is to be contained on site as no construction zones will be permitted on Miller Street in the vicinity of the site.
3. Any proposed temporary/partial road closures will require the applicant to apply for a Road Occupancy License By contacting the Transport Management Centre's Planned Incidents Unit on (02) 8396 1513 during office hours (8am-4pm) or 131 700 after hours.
4. Any proposed landscaping must not restrict sight distance to pedestrians and cyclists travelling along the footpath.
5. All vehicles are to enter and leave the site in a forward direction.
6. All works/regulatory signposting associated with the proposed development are to be at no cost to the RMS.

Heritage

Councils' Conservation Planner has provided the following comments:

1. Heritage Status

- Heritage Item listed within NSLEP 2001, being the Monte Sant' Angelo Group *'important regional private school since the 1880s. Contains a significant early mansion as its central building. Chapel and Mercy Hall are both fine buildings from the turn of the century. O'Regan House is a complementary building to the rest and respectable in its own right. The group, all in sight of each other, form an impressive precinct.'*
- Contains the individually significant Chapel, 'Masalou' building and 'Mercy Hall'.
- The proposed works also affect the heritage listed properties at 27 to 33 McLaren Street.
- The proposed works are partially within the McLaren Street Conservation Area.

2. The Property

The areas of the College where works are proposed were inspected internally and externally on 25 July 2012, including O'Regan House, the Chapel and the areas to the rear of those buildings, where the new building is to be constructed. The area where the works are to be undertaken contains several structures, including parts of O'Regan House, which have limited heritage significance and some, like the Cloisters, detract from the significant buildings on the site. The rear section of O'Regan House is a later addition and has limited significance. The areas behind the building and chapel contains car parking areas and various outbuildings of negligible heritage significance.

3. The Proposal

The development application is for a new building on the Monte Sant' Angelo site, referred to as an 'Arts and Creativity Common'. The works involve partial demolition of the rear section of O'Regan House, demolition of the connecting structures between the building and the Chapel, demolition of the former Infirmary building and the construction of a new arts and music centre at the rear of O'Regan House, with a landscaped roof area adjacent to the Chapel and behind the listed buildings on McLaren Street. O'Regan House will be converted into music and art facilities.

The applicants Heritage Impact Assessment gives the following description of the proposed works:

'The proposed new building is partly excavated into the site to allow for the retention of a large open landscaped space at ground level at the rear of the Chapel building which will also maintain the setting and outlook from the residential buildings in McLaren Street which back onto the development site.'

Public entry to the proposed theatre is from the main Miller Street gates to a new foyer at the rear of O'Regan House. The principal spaces in that building are retained and adapted for offices and an exhibition gallery on the ground level and small scale studio spaces on the first floor level. The traditional form of the retained slate roof is separated from the more contemporary structure containing the auditorium and teaching studios by a three storey void containing the foyer, access stairs and having a glazed roof light.

The height of the new building is aligned with the wall height of the Chapel making it subservient to the overall height and form of that building. The treatment of the new structure will ensure that in views from Miller Street it will not be visible over the ridge of the existing slate roofing on O'Regan House.

The design provides for a new and more inviting forecourt to the Chapel which will retain its more significant connection to 'Masalou' screened by the existing cloister wall which defines the memorial garden to the west of the Chapel.'

4. Heritage Impact of the Proposal

The proposal involves the works that impact on several individually listed buildings on the site, primarily O'Regan House and the Chapel. They also impact on 'Masalou' and the listed houses at 27 – 33 McLaren Street, plus the heritage values of the Monte Sant' Angelo site as a whole.

4.1 Impact of proposed works to O'Regan House

O'Regan House was originally built as a residence and doctor's rooms c1910. It was acquired by the church and converted to a Novitiate in the 1921s, when the rear section of the building is understood to have been built to accommodate the needs of the novices. The building became part of the Monte Sant'Angelo college in 1960, having various uses over the years, including the Junior School until 1979. It is currently used as classrooms.

The Heritage Impact Assessment lodged by the Applicant gives the following Statement of Significance for the building: ‘

‘O’ Regan House is significant as an example of early 20th century Arts and Crafts style domestic architecture designed by a local architect for a prominent local medical practitioner. The place is also significant for the role it has played in the expansion and growth of the activities of the Congregation of the Sisters of Mercy within North Sydney and in particular with the establishment of Monte Sant’ Angelo College. The building is representative or remnant residential buildings in North Sydney that have been incorporated into private school grounds to meet expanding requirements of those institutions and its adaptation and modification from its original form reflect these processes.

Though not originally part of the College site, the place has been an integral part of the historic core of the site for more than 90 years and is highly regarded by the school community and by members of the Congregation. The place has Local heritage significance for these values. The place is modified by later additions but retains its presentation to Miller Street.’

The proposal involves the demolition of the rear section of O'Regan House. This part of the building is not original and has been much altered with intrusive elements over time. The area to be demolished is of minor heritage significance, and no objection is raised to the demolition on heritage grounds. The front, original part of the building retains its integrity and significance. The front section is proposed to be retained and conserved and more appropriate uses are proposed for the primary rooms. These works will have a positive heritage impact and ensure the longevity of the listed building.

The proposed new “Arts and Creativity Common’ building will adjoin O'Regan House at the rear. The part of the building at adjoins O'Regan House has been stepped down to the same height as the existing building in order to reduce the impact of the larger new building, and limit visibility from Miller Street. The lowered section, which has a glazed facade and contains a three storey void, acts as a transitional element and assists in the visual separation of the original building from the new, contemporary form. The contemporary form of the new buildings is

considered to be appropriate to distinguish it as a new building and to reflect the ongoing use of the site as an educational establishment.

4.2 Impact of proposed works The Cloisters and Chapel

The Cloisters structure connecting the Chapel and O'Regan house was constructed in c1935, providing a covered walkway between the then novitiate and the chapel. The structure is an instructive element of little heritage value, which detracts from the Chapel and its surroundings. Its removal allows the entrance to the significance chapel to be reinstated as an important element, with a new formal forecourt connection to the new Arts and Creativity Common and 'Masalou'. As such, no objection is raised to the removal of the Cloisters.

4.3 Impact of proposed new 'Arts and Creativity Common' Building

The proposed building is a clearly contemporary building that is located at the rear of the O'Regan building. The building will provide accommodation for the school in a location that is currently under-utilised and contains a number of structures that impact adversely on the heritage values of the site. Their removal allows the new building to be built and for a large landscaped courtyard to be created on the site.

The proposal has been designed to respect the scale and form of the significant buildings on the site, particularly the Chapel, O'Regan House and 'Masalou'. By excavating into the site, the new building is able to be submissive in scale to the heritage items. The removal of unsympathetic structures and creation of a new forecourt and landscaped courtyard enhances their settings and surroundings, as well as the setting of the listed buildings along McLaren Street. Being of contemporary design and form, the new building will be able to be clearly distinguished as new work, in accordance with conservation principles.

5. Conclusion and Recommendations

An assessment of the proposal at 128 Miller Street, has been undertaken in relation to Clause 44 and 48 (Heritage Items), Clause 49 (Conservation Areas) of the North Sydney LEP 2001 and Section 8.8 (Heritage Items and Conservation Areas) of the North Sydney DCP 2002.

In assessing the heritage impact of the proposed works to create a new 'Arts and Creativity' Common at Monte Sant' Angelo the impact on a number of individually listed buildings has been considered, as well as the significance of the site as a whole. In addition, the impact of the proposed works on the listed buildings at 27 – 33 McLaren Street and McLaren Street Conservation Area has been considered.

The works proposed will allow for the creation of a new building on the school site with minimal impact on its heritage value and the heritage significance of the individually listed buildings on the site. The works involve removing unsympathetic elements and replacing them with new built elements that will significantly enhance the setting and presentation of the Chapel, in particular. The works to O'Regan House are considered to be acceptable, as the most significant and intact part of the building is to be conserved.

The works will have a positive impact on the site as a whole, and on the setting of

the listed buildings on McLaren Street. The new building will be visible through slot views from the McLaren Street Conservation Area, but is not considered to have a detrimental impact on it.

Accordingly, no objections to the proposal are raised on heritage grounds, subject to the imposition of the following conditions, should the application be approved.

Landscaping

Council's Landscape Officer has provided the following comments:

It is advised that I have inspected the property on two occasions, the first time to assess drawings submitted at the pre-da meeting and the impact on trees within the property and again with the Project Manager and Landscape Architect to discuss the proposal that would be submitted to Council.

At the aforementioned site inspection I became aware that it would be necessary to remove an over mature Lillipilli. The Project Manager indicated that he would submit a detailed Arborists' Report indicating all trees to be removed, including reasons supporting their removal. The report should also provide protective measures for trees to be retained in the vicinity of building works. He would also submit a detailed Landscape Plan that will both include numerous new tree and shrub plantings to redress any amenity values lost by the removal of the trees as proposed, as well as providing an improved pedestrian connection to the various parts of the school.

The most significant of the trees to be removed is an over mature Lillipilli that is a large specimen and does contribute to the amenity of the school and plays a minor role in the streetscape. However my assessment of the tree is in accordance with the appointed Arborist, that is, that the tree is in decline with much deadwood and will at some stage in the not to distant future become a threat to students from Branch drop.

In conclusion it is my opinion that the amenity and habitat values of the trees being removed to accommodate the subject development application have been adequately redressed by the new plantings shown on the landscape plan.

The proposed works should not threaten any existing street trees, however as large trucks and plant may be delivered to site from the Miller Street entrance to the property, I recommend a small bond be placed of the trees. Should the application be supported, I recommend that the following conditions be included in the consent...

Traffic

Council's Manager Traffic Planning has provided the following comments:

Page 60 of the SEE states:

"that the proposed new arts and creativity building is proposed to augment the existing educational facilities on the site and will not result in an increase in the school staff or student numbers" and

"In this respect, the proposed development will not increase traffic or parking generation by the Monte Sant' Angelo Mercy College"

Given that the proposed development does not impact on traffic and parking, Council's Traffic Planning Section has no issues with the proposal from a traffic engineering/ transport planning perspective.

Should the development impact on traffic and/or parking, then the applicant must submit a Traffic Impact Assessment (TIA) report, prepared by a suitably qualified traffic consultant, to the satisfaction of Council.

Should the development be approved, it is recommended that the following conditions be imposed:

- 1. That a Demolition and Construction Management Program be prepared and submitted to Council for approval by the North Sydney Traffic Committee prior to the issue of the Construction Certificate. Any use of Council property shall require appropriate separate permits/ approvals.*
- 2. All materials and equipment are to be loaded and unloaded within the boundaries of the site.*

Development Engineer

Council's Development Engineer has raised no objections to the proposal subject to conditions.

SUBMISSIONS

The owners of adjoining and nearby properties and all Precinct Committees were notified of the proposed development from 13/7/12 to 28/7/12. No submissions were received.

CONSIDERATION

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

NORTH SYDNEY LEP 2001

The application has been assessed against the relevant numeric controls in NSLEP 2001 as indicated in the following compliance table.

STATUTORY CONTROL – North Sydney Local Environmental Plan 2001				
	Existing	Proposed	Control	Complies
Residential				
Building Height (Cl. 17 through the operation of Cl.34) (max)	-	10.9m	8.5m	NO*
Building Height Plane (Cl.18)				
• Nth Elevation	-	7m protrusion	1.8m/45° plane	NO*
• Sth Elevation	-	Complies		YES

• East Elevation	-	Complies		YES
• West Elevation	-	Complies		YES
Landscape Area (Cl. 20) (min)	3830 m ²	3643m ²	11631m ²	NO*

*SEPP 1 objection submitted


Draft North Sydney LEP 2009

The application has been assessed against the relevant numeric controls in Draft NSLEP 2009 as indicated in the following compliance table.

Draft North Sydney Local Environmental Plan 2009				
	Existing	Proposed	Control	Complies
Part B4 Mixed Use and part R3 Medium Density Residential				
Height of Buildings Cl. 4.3	-	10.9m	Part 8.5m and part 16m	NO (partial compliance)
Floor Space Cl.4.4	-	0.5:1-2.0:1	0.5:1-2.0:1	YES

DCP 2002 Compliance Table

DEVELOPMENT CONTROL PLAN 2002		
	Complies	Comments
Section 7 – Residential Development		
Maintaining residential accommodation	Yes	There will be no loss of residential accommodation as a result of the proposed development.
Maintaining affordable housing	Yes	There will be no loss of affordable housing as a result of the proposed development.
Views	Yes	The proposed building will not obscure any significant views available from surrounding properties, largely due to the siting of the building in relation to existing buildings on the school site, and the height of the structures.
Solar access	Yes	No impact on any surrounding dwellings at midwinter.
Noise	Yes	A noise assessment report prepared by Wilkinson Murray indicates that noise generated by the use of the theatre will largely be contained within the building and that there will be no adverse impact on surrounding dwellings or the McLaren Hotel. Suitable conditions will be applied to ensure that Council's noise criteria are satisfied.
Privacy	Yes	There will be no adverse impact on the privacy

		of any adjoining residential developments.
Streetscape	Yes	The location of the subject works is set back from the Miller Street and McLaren Street frontages. While the new building will be partially visible between existing buildings from McLaren street, the proposal will not have an adverse impact on the streetscape to either street.
Form, massing and scale	Yes	<p>The proposed theatre is substantially excavated into the site, with a maximum height above ground level of approximately 10.9m where it adjoins O'Regan House. The building at its western end is entirely below ground level. The form, massing and scale of the theatre has been designed with regard to its context and placement adjacent to both O'Regan House and the Chapel.</p>  <p>EAST ELEVATION</p> <p>The architectural treatment of the junction between the theatre and O'Regan House has been designed with suitable regard to the heritage significance of the item.</p>
Built form character	Yes	The proposed building and works will result in a development that is entirely consistent with the built form character of the subject site which is used as a "convent school".
Colours and materials	Yes	The colours, materials and finishes include a Colorbond Shale Grey roof, masonry cladding in off-white and charcoal, painted steel framing, energy efficient glazing, anodized aluminium window frames, perforated aluminium screening and timber detailing. A sample board of colours and materials has been provided. The proposed colours and materials and their intended application have considerable architectural and aesthetic merit, and have an appropriate relationship to the adjoining heritage items. The proposal is satisfactory with regard to colours and materials.
Accessibility	Yes	The proposal includes a new lift and access throughout the new building and O'Regan House, significantly improving accessibility. An access report has been submitted and the

		proposal is considered satisfactory with regard to the provisions of the Disability Discrimination Act(DDA) and the BCA, subject to conditions.
Landscaped Area	Yes	<p>While the proposed development marginally reduces the landscaped area on the school site, the roof over the theatre is proposed to be an accessible turfed roof (“breakout area”) for use by students. While not meeting the definition of “landscaped area”, this area will provide considerable amenity on the site. A SEPP 1 objection has been submitted in relation to landscaped area.</p> <p>In relation to impact on existing trees, an arborist’s report and tree plan have been submitted. Council’s Landscape Officer has indicated no objections to the proposal, subject to conditions.</p>
Section 9 - Car Parking		
Educational establishment: 1 space per 6 staff	Yes	There is no proposed increase in staff (or student) numbers as part of this application.
Section 13 - Contaminated Land		
Consideration of likelihood of land contamination	Yes	Given the previous use of the site as a convent school, it is considered very unlikely that the site is contaminated.
Section 14 – Erosion and Sediment Control		
Minimise soil erosion and prevent sediment entering adjoining properties or stormwater system	Yes	An erosion and sediment control plan has been submitted and suitable conditions of consent will be applied in relation to erosion and sedimentation.
Section 15 – Stormwater Drainage		
Stormwater systems to satisfy Council’s Performance Guide and Infrastructure Specification Manual	Yes	A stormwater services plan has been submitted and Council’s Development Engineer raises no objections to the proposal, subject to conditions of consent.
Section 23 – Traffic Guidelines for Development		
Minimise disruption to pedestrians and traffic during construction	Yes	<p>A preliminary Construction and Traffic Management Plan has been provided with the application.</p> <p>Conditions of consent will be applied in relation to the preparation of a Demolition and Construction Management Program, to be approved by the North Sydney Traffic Committee prior to the issue of a Construction Certificate. Further, all materials and equipment are to be loaded and unloaded within the boundaries of the site, and suitable</p>

		conditions will be applied. It should be noted that the RMS has also provided conditions in relation to traffic (see previous comments from RMS)
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NORTH SYDNEY LEP 2001

1. Permissibility within the zone:

The site is zoned part Residential B and part Special Uses (Convent School) pursuant to Clause 14 of NSLEP2001, and the proposed development is permissible with consent in both zones

2. Objectives of the zone

The particular objectives of the Residential B and Special Use zones, as stated in clause 14 of NSLEP 2001, are:

Residential B Zone

The particular objectives of this zone are to:

- (a) maintain lower scale mixed residential neighbourhoods, and*
- (b) allow for residential development in a variety of housing forms, including detached dwellings, duplexes, attached dwellings and boarding houses, and*
- (c) assist in the conservation of heritage, and*
- (d) minimise the impact of non-residential uses and ensure these are in character with the zone.*

Special Use Zone

The particular objectives of this zone are to:

- (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.*

The proposed development is consistent with the objectives of both zones, maintaining lower scale development, conserving heritage items and minimising any impact on surrounding uses.

3. Building Heights

The site is subject to a maximum building height of 8.5 metres by virtue of Clause 17(3) (by operation of Clause 34) of the LEP. The proposal exceeds the height limit by approximately 2.4m.

The applicant provided Council with SEPP No.1 objection to seek a variation to the building height control. The proposed breach has been assessed in accordance with the requirements of SEPP1 and the objectives of the control. These matters have been considered below: -

- (a) Limit the height of buildings in residential zones to heights which are the same or similar to the characteristic building heights** – The proposed theatre building is of a characteristic building height, being approximately the same height as O'Regan House and lower than the Chapel building. The building is largely obscured from view from Miller Street and McLaren Street.
- (b) Promote gabled and hipped roofs in all residential zones** – The proposed roof is partly landscaped and partly a flat roof. This is an appropriate roof form in the context of adjoining buildings and with regard to the type of building proposed.
- (c) Promote the retention of and if appropriate, sharing of existing views** – The proposal would not have an adverse impact on any existing views.
- (d) Maintain solar access to new and existing dwellings, public reserves and streets and promote solar access to new buildings** – The proposal is satisfactory with regard to overshadowing of surrounding dwellings.
- (e) Maintain privacy for residents of existing dwellings and promote privacy for residents of the new buildings** – The proposal would have no privacy impact on surrounding properties.
- (f) Prevent excavation of sites for building works** – Extensive excavation works are proposed, however, this is considered acceptable given the design of the theatre building and with regard to the geotechnical report on the site. A traffic management plan will be required to manage the removal of excavated material.

It is concluded that the SEPP 1 objection demonstrates that the objectives of the building height requirements are satisfied despite the proposed breach of the building height control. The SEPP 1 objection is well founded, and demonstrates that strict compliance with the building height control is unreasonable and unnecessary in the circumstances.

4. Building Height Plane

Clause 18(1) of the LEP 2001 specifies the objectives for the building height plane controls. As detailed in the above compliance table, the proposed works will result in an additional breach of the building height plane to the northern boundary adjoining No.194 Miller Street.

The applicant provided Council with SEPP No.1 objection to seek a variation to the building height plane control. The proposed breach has been assessed against the performance criteria of Clause 18(5) and the objectives of the control. These matters have been considered below: -

- (a) Overshadow any existing or new property** –There is no adverse overshadowing impact as the site is to the south of the adjoining property.
- (b) Reduce the level of privacy to any existing or new property** – As previously discussed, the amended plans result in no adverse privacy impact.
- (c) Obstruct views from any existing or new property** – There is no adverse impact on views.
- (d) Obstruct daylight or ventilation to any existing or new property** - There will be no impact on the daylight and ventilation to adjacent properties.

The development results in no material impact upon any surrounding development. Therefore, Council can use SEPP 1 as a mechanism to vary the development standard where the objectives of the control are satisfied: -

- (a) Control the bulk and scale of buildings** - The scale of the proposed building is acceptable when considering the existing bulk and scale of adjoining buildings and of buildings in the immediate vicinity of the site.
- (b) Provide separation between buildings** – The proposal is satisfactory with regard to separation between buildings. There are no adverse impacts as a result of the proposed breach.
- (c) Preserve the amenity of existing dwellings** - As detailed in the consideration of the Clause 18(5) requirements above, the proposed works will not have any material impacts upon the amenity of existing dwellings in the vicinity of the site.

It is concluded that the SEPP 1 objection demonstrates that the objectives of the BHP in controlling building bulk and scale, providing separation and preserving amenity of adjoining land will not be compromised as a result of the proposed breach of the BHP. The SEPP 1 objection is well founded, and demonstrates that compliance with the BHP control is unreasonable and unnecessary in the circumstances.

5. Landscaped Area

The proposed development results in a minor decrease in landscaped area, of approximately 187m². This is a marginal reduction in landscaped area when assessing the entire school campus area of approximately 1.9ha. Additionally, it is proposed to turf the roof of the theatre building, being an area of approximately 425m², which will provide a usable landscaped area, despite not technically meeting the definition of “landscaped area”.

A SEPP1 objection has been submitted. The proposed development is considered against the objectives of the control as follows:

- (a) *Promote the Character of the Neighbourhood*** - The application includes a large green roof over the theatre which will ensure that the development remains consistent with the character of the neighbourhood.
- (b) *Provide useable private open space for the enjoyment of residents*** - The turfed area will provide a usable breakout space for students.
- (c) *Provide a landscaped buffer between adjoining properties*** – The proposal is satisfactory with regard to landscaping between adjoining properties.
- (d) *Maximise retention and absorption of surface drainage water on site*** – The proposal increases soft landscaping and conditions will be applied in relation to the control of stormwater.
- (e) *Minimise obstruction to the underground flow of water*** - There is no obstruction to underground flow of water as a result of the proposed works.
- (f) *Promote substantial landscaping, including trees which will grow to a minimum height of 15 metres*** – The proposed landscaping and landscaped area are satisfactory, subject to conditions as previously discussed.
- (g) *Control site density*** – No change to the site density is proposed.
- (h) *Minimise site disturbance*** – The site will not be unreasonably disturbed by the proposed works.

It is concluded that the SEPP 1 objection demonstrates that the objectives of the Landscaped Area control will not be compromised as a result of the proposed breach. The SEPP 1 objection is well founded, and demonstrates that compliance with the BHP control is unreasonable and unnecessary in the circumstances.

6. Excavation of Land

Significant excavation to a maximum depth of approximately 10 metres is proposed.

The Statement of Environmental Effects includes a satisfactory geotechnical report which includes recommendations for excavation and construction and a suitable condition will be applied if consent is granted. A traffic management plan approved by the Local Traffic Committee will be required to manage the removal of excavated material.

8. Heritage Conservation

Council's Conservation Planner has assessed the application with reference to Clause 44 and 48 (Heritage Items), Clause 49 (Conservation Areas) of the North Sydney LEP 2001 and Section 8.8 (Heritage Items and Conservation Areas) of the North Sydney DCP 2002. In assessing the heritage impact of the proposed works to create a new 'Arts and Creativity' Common at Monte Sant'Angelo the impact on a number of individually listed buildings has been considered, as well as the significance of the site as a whole. In addition, the impact of the proposed works on the listed buildings at 27 – 33 McLaren Street and McLaren Street Conservation Area has been considered.

It is considered that the works proposed will allow for the creation of a new building on the school site with minimal impact on its heritage value and the heritage significance of the individually listed buildings on the site and that the works will have a positive impact on the site as a whole, and on the setting of the listed buildings on McLaren Street. The new building will be visible through slot views from the McLaren Street Conservation Area, but is not considered to have a detrimental impact on it.

SEPP (Infrastructure) 2007

SEPP (Infrastructure) 2007, among other things, establishes a framework for certain types of development to be referred to the Traffic Authority for consideration.

The proposal was referred to the RMS for comment. As noted previously in this report, the RMS has considered the proposed development and raises no objections.

SEPP 55 and Contaminated Land Management Issues

The subject site has been considered in light of the Contaminated Lands Management Act and it is considered that as the site has been used for school and convent purposes, contamination is unlikely.

SREP (Sydney Harbour Catchments) 2005

The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP. The site, however, is not located close to the foreshore and the application is considered acceptable with regard to the aims and objectives of the SREP.

Draft NSLEP 2009

Draft North Sydney Local Environmental Plan 2009 has been publicly exhibited, following certification of the plan by the Director-General of the Department of Planning.

It is therefore a matter for consideration under S.79C of the Environmental Planning and Assessment Act 1979. While at this stage little weight can be given to the plan since the final adoption is neither imminent nor certain, the draft height limit is consistent with the existing LEP and DCP controls and previous approvals on the subject site.

The provisions of the draft plan have been previously considered in this report, in relation to the subject application. Draft LEP 2009 is the comprehensive planning instrument for the whole of Council's area which has been prepared in response to the planning reforms initiated by the NSW state government.

The proposal is satisfactory with regard to Draft NSLEP 2009.

DEVELOPMENT CONTROL PLAN 2002

NORTH SYDNEY CENTRE PLANNING AREA / MCLAREN STREET CONSERVATION AREA

The subject site is within the McLaren Street Conservation Area which falls within the North Sydney Centre Planning Area. The proposal is satisfactory with regard to the DCP

and character statement provisions.

APPLICABLE REGULATIONS

Clauses 92-94 of the EPA Regulation 2000 require that Council take into consideration Australian standard AS 2601-1991: *the demolition of structures*, as in force at 1 July 1993. As partial demolition of the existing structures are proposed, a suitable condition should be imposed.

DESIGN & MATERIALS

The design and materials of the building are satisfactory, as discussed in detail in this report.

ALL LIKELY IMPACTS OF THE DEVELOPMENT

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

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

CONCLUSION

This application proposes a well designed and integrated arts and creativity common within the Monte Sant' Angelo Mercy College site. The application has been assessed against all relevant statutory requirements and is considered to be a satisfactory form of development, subject to conditions of consent. The SEPP 1 objections are considered to be well founded and are supported.

The application is recommended for approval by the Joint Regional Planning Panel.

RECOMMENDATION

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

THAT the Joint Regional Planning Panel, as the consent authority, grant development consent to **2012SYE071** - Development Application No.205/12 for alterations and additions to existing school including construction of new multi-level performing arts building, demolition of existing structures, re-use of existing buildings and landscaping works, subject to the attached conditions:

George Youhanna
EXECUTIVE PLANNER

Stephen J Beattie
MANAGER DEVELOPMENT SERVICES
