

Assessment against planning controls

1 Environmental Planning and Assessment Act 1979

a. Section 79C 'Heads of Consideration'

In determining a DA, a consent authority is to take into consideration the relevant matters listed under Section 79C of the EP&A Act. The development satisfies the matters for consideration under Section 79C of the Act as detailed below.

Heads of Consideration 79C	Comment	Complies
a. The provisions of : (i) Any environmental planning instrument (EPI) (ii) Any development control plan (DCP) (i) The regulations	The provisions of the relevant Environmental Planning Instruments (EPIs) relating to the proposed development are listed within this attachment. The proposal is considered to be consistent with the relevant EPIs, including SEPP (State and Regional Development) 2001, SEPP (Infrastructure) 2007, SEPP No. 55 – Remediation of Land, Rural Fires Act 1997, Draft West Central District Plan, and BLEP 2015. The proposed development is a permissible land use within the zone SP2 Infrastructure – Educational Establishment and Place of Public Worship, and satisfies the zone objectives outlined under BLEP 2015. There is no height or FSR control under BLEP 2015. The BDCP 2015 applies to the site. The proposed development is compliant with the numerical controls established under the DCP. There are no regulations to be considered.	Yes Yes Yes N/A
b. The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality	An assessment of the key issues relating to the proposed development is provided under section 8 of the report. It is considered that the likely impacts of the development, including traffic, noise, parking and access, bulk and scale, overshadowing, privacy, stormwater, waste management and the like, have been satisfactorily addressed. A site analysis was undertaken to ensure that the proposed development will have minimal impacts on surrounding properties. There is asbestos contained within the structures to be demolished, and reports have been provided. Risks associated with the asbestos removal and possible site contamination and remediation have been addressed with appropriate conditions. (See Conditions 1.9.1, 3.4.1, 3.4.2, 3.4.3, 4.1.6, 4.1.11, 5.1.1, 5.1.2, 7.3.1, 12.7.1, 12.11.1.1, 12.11.1.2). In view of the above it is believed that the proposed development will not have any unfavourable social, economic or environmental impacts.	Yes

Heads of Consideration 79C	Comment	Complies
c. The suitability of the site for the development	The subject site is zoned SP2 Infrastructure – Educational Establishment and Place of Public Worship. There is no building height limit or FSR mapped under BLEP 2015. Educational establishments are permissible on the site with development consent. The site has an area and configuration that is suited to this form of development, and there are existing educational establishments on the site. The design solution is based on sound site analysis and responds positively to the land use on the site, and the land uses surrounding the site. The proposed development is considered satisfactory with regard to key issues such as Siting and Design, Bulk and Scale and Built Form, Access, Stormwater Drainage, ESD, Site Contamination, Salinity, Social and Economic Impacts and the like, subject to the imposition of suitable conditions of consent to satisfactorily address the impact of the development. The site is located near services, facilities and a major arterial road network, and there is no intensification of the current use proposed.	Yes
d. Any submissions made in accordance with this Act, or the regulations	No submissions were received in response to public notification of the development.	Yes
e. The public interest	It is considered that no adverse matters relating to the public interest arise from the proposal. The proposal provides for alterations and additions to an existing educational establishment within an established residential area within south Blacktown.	Yes

2 State Environmental Planning Policy (State and Regional Development) 2011

a. *Development for which regional panels may be authorised to exercise consent authority functions of councils*

The Sydney Planning Panel (SPP) is the consent authority for all regional development listed under Schedule 4A of the EPA Act 1979 which constitutes 'private infrastructure and community facilities with a Capital Investment Value of more than \$5 million'. As the development application (DA) has a CIV of \$5,262,727 (+ GST), Council is responsible for the assessment of the DA and determination of the application is to be made by the SPP.

3 State Environmental Planning Policy (Infrastructure) 2007

a. *Erection of new buildings on existing educational establishment sites*

Clause 28 of SEPP (Infrastructure), provides for development for the purpose of educational establishments to be carried out on land on which there is an existing educational establishment.

Clause 31 of SEPP (Infrastructure), provides for the erection of new buildings on existing educational establishment sites as complying development that comply with:

- a height limit of 12 m

- a setback of 5 m
- materials standard – any new external walls or roof of a building must be constructed of non-reflective material
- and are not on bushfire prone land.

The proposal complies with SEPP (Infrastructure) with respect to the height limit being 9.34 m in height, and the setback requirements. Conditions will be imposed in relation to the materials standard requirement. These are discussed at section 7 in this attachment. However the proposal is non-complying development under SEPP (Infrastructure) as it is non-compliant with the requirements under Clause 31A which exclude development on bush fire prone land. This aspect relating to 'Integrated Development' which requires concurrence from the NSW Rural Fire Service is discussed at section 5 in this attachment.

Clause 32 of SEPP (Infrastructure), requires that the consent authority is to take into consideration all relevant standards of the following State Government publications:

- (a) *School Facilities Standards—Landscape Standard—Version 22* (March 2002),
- (b) *Schools Facilities Standards—Design Standard* (Version 1/09/2006),
- (c) *Schools Facilities Standards—Specification Standard* (Version 01/11/2008).

The applicant has submitted an assessment detailing compliance with the abovementioned School standards. As such, the proposal is considered to satisfy the School Standards. In addition, a **condition** will be imposed requiring compliance with the School Standards (see **Condition 2.7.3**).

4 State Environmental Planning Policy No. 55 – Remediation of Land

a. *Contamination and remediation to be considered in determining development application*

Clause 7 states that consent must not be granted to the carrying out of any development on land unless the consent authority has considered whether the land is contaminated.

State Environmental Planning Policy No. 55 – Remediation of Land aims to 'provide a State wide planning approach to the remediation of contaminated land'. Where contamination is, or may be, present, the SEPP requires a proponent to investigate the site and provide the consent authority with the information to carry out its planning functions.

The likelihood of encountering contaminated soils on the subject site is considered to be extremely low given:

- i. The site has been continuously used for the purpose of an educational establishment since 1965
- ii. The adjoining and nearby properties are currently used for residential purposes
- iii. Adjoining buildings on site are currently used for educational purposes, and also for use as a presbytery, child-care centre, and church
- iv. The site and surrounding land has not been previously zoned for industrial or agricultural uses.

However the site has been previously investigated, and asbestos is present in the three buildings that are to be demolished, namely existing Blocks G, H and J located towards the north-western section of the site. The proponent has tendered a Hazardous Material Review dated 6 April 2009, and an undated Site Investigation Report. The following hazardous

material was outlined in the reports: asbestos fibre cement sheeting, eaves, awnings, felt backing to vinyl flooring, lining and partitions, asbestos cement in paths.

In relation to any asbestos material found during the proposed demolition works, asbestos disposal dockets must be lodged with Council at the completion of the demolition and prior to commencement of the construction of the development to verify that all asbestos materials have been disposed of in accordance with Environment Protection Authority (EPA) and WorkCover requirements.

Prior to the issue of a Construction Certificate, a qualified Site Auditor is to be engaged by the applicant to undertake an investigation of the land to ascertain if the site has been affected by any contaminants (including, but not limited to, asbestos, organochlorins, arsenic, lead, petroleum residues and the like) that may be detrimental to the health of any future occupants and/or workers. Any recommendations made on the method of any remediation of the land are to be carried out to Council's satisfaction, and a Site Auditor report provided at the completion of the investigation, remediation and validation.

Standard asbestos and contamination **conditions** will be imposed on any development consent in the event that any contamination is discovered during the building construction phase, and to ensure compliance with Australian Standards relating to asbestos removal (See **Conditions** 1.9.1, 3.1.1, 3.4.2, 3.4.3, 4.1.6, 4.1.11, 5.1.2, 7.3.1).

As part of any consent, however, standard **conditions** will be imposed to prevent illegal dumping of material and to address any unforeseen contaminated material unearthed during construction. (See **Conditions** 3.4.1, 5.1.1, 11.6.1, 12.7.1, 12.11.1.1, 12.11.1.2).

5 Rural Fires Act 1997

a. *Special fire protection purpose to be considered in determining development application*

The proposal is classified as 'Integrated Development' pursuant to Section 91 of the EPA Act 1979, as concurrent approval is required from the NSW Rural Fire Service under Section 100B of the Rural Fires Act 1997. The land to the west of the site, west of Reservoir Road, known as Harper's Bush, is zoned E2 Environmental Conservation, and contains woodland vegetation. Given that part of the site area is within the 100 m bushfire buffer zone, and is therefore bush fire prone land, the applicant provided a Bushfire Hazard Assessment Report prepared by Building Code & Bushfire Hazard Solutions Pty Limited. This report addressed the requirements for this development, given that schools are considered a special fire protection purpose under Planning for Bushfire Protection 2006 and the Rural Fires Act 1997. The DA was referred to NSW RFS, who requested additional information, and then granted a Bushfire Safety Authority, and **conditions** of consent. These relate to water and utilities; evacuation and emergency management; and landscaping. On the merits of the application the proposal is therefore considered satisfactory.

6 Draft West Central District Plan

Whilst the Environmental Planning and Assessment Act 1979 does not require consideration of District Plans in the assessment of development applications, an assessment of the Draft West Central District Plan has been undertaken.

The development is consistent with the Productivity and Liveability overarching priorities as listed below.

Liveability (Operational phase)

- Improving education infrastructure

- Creating great places.

Productivity (Operational phase)

- Growing the Blacktown strategic centre, including education activities.

7 Blacktown Local Environmental Plan (BLEP) 2015

a. *Compliance with the development standards within Blacktown Local Environmental Plan 2015*

The table below provides a summary assessment of the development standards within BLEP 2015 and the proposal's compliance with these standards. The development complies with the development standards contained within BLEP.

Blacktown Local Environmental Plan 2015			
Development Standard	Requirement	Proposal	Compliant
Demolition requires development consent	The demolition of a building may only be carried out with development consent.	The proposal includes demolition of three existing educational Blocks.	Yes Suitable conditions will be included to address demolition. (Conditions 3.1 through to 3.5.2)
Zoning SP2 Infrastructure – Educational Establishment and Place of Public Worship Objectives:	To provide for infrastructure and related uses.	The proposal is for a two-storey Education Block, which is replacing three smaller Educational Blocks that are being demolished.	Satisfactory
	To prevent development that is not compatible with or that may detract from the provision of infrastructure.	The proposal is not inconsistent with this objective.	Satisfactory
	To ensure that development does not have an adverse impact on the form and scale of the surrounding neighbourhood.	The proposal provides for generous setbacks to the surrounding neighbourhood. The number of staff and students at the school remain unchanged, so there is no intensification of the use, or increase or alteration in traffic access, parking requirements, and use of public transport.	Satisfactory

Permissible uses:	Educational establishments	The proposal is permissible in this zone with consent. The DA must be submitted to the SPP for determination.	Satisfactory
Prohibited Uses:	N/A	N/A	N/A
PRINCIPAL DEVELOPMENT STANDARDS			
Height of buildings	The site is not mapped with a building height.	The building has a proposed building height of 9.34 m. It is replacing existing single and two-storey buildings that are being demolished. The proposed height is in keeping with the existing multipurpose hall on site which is 10 m in height, and the other two-storey classroom-style buildings in the vicinity.	Satisfactory
Floor space ratio	N/A	N/A	N/A
Exceptions to development standards	N/A	N/A	N/A
MISCELLANEOUS PROVISIONS			
Preservation of trees or vegetation	The objective of this clause is to preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation.	The development proposes the removal of 5 trees, which are within the footprint of the buildings and items to be demolished. Council's project officer has reviewed the landscape plans and tree removal plan which are considered acceptable. Ten replacement trees of the same or similar endemic species will be required to be planted within the complex as a condition of any consent.	Satisfactory, subject to Conditions . (Condition 12.11.4.1)
Heritage Conservation	The objective of this clause is to conserve the environmental heritage in Blacktown.	The site is not in the vicinity of a heritage item or area.	N/A

ADDITIONAL LOCAL PROVISIONS			
Flood planning	Minimise the flood risk to life and property.	The site is not identified as being flood affected, although an area in the north-east of the site is flood-mapped. Drainage Engineering have reviewed the engineering plans, and required amendments, which were supplied and met their requirements.	Yes, subject to conditions (Conditions 7.2.1, 7.2.2, 8.4.1, 8.4.2, 8.6.1-8.6.5, 12.10.3)
Terrestrial biodiversity	Protect native fauna and flora.	The site is not identified as containing terrestrial biodiversity.	N/A
Riparian land & watercourses	Protect and maintain water quality within watercourses.	The site is over 40 m to a watercourse and therefore is not 'Integrated' development.	N/A
Active street frontages	N/A	N/A	N/A
Essential services	Adequate arrangements for the supply of water, supply of electricity, management and disposal of sewerage, stormwater drainage or conservation, and suitable road access.	The applicant has demonstrated these items are currently in place.	Yes Suitable conditions will be imposed on any consent to ensure that all necessary services are provided to the development. (Conditions 1.4.1-1.4.6, 2.2.1, 2.4.1, 2.4.2, 4.1.13, 9.3.1, 10.3.1, 12.4.1)
Design Excellence	The proposal is to meet the standard required of 'design excellence'.	The site is not identified within the area mapped as 'design excellence'.	N/A
Minimum site requirements for development on certain land	Key Sites	The site is not identified as a 'key site.'	N/A

Some specific clauses within BLEP are discussed further below.

b. Clause 2.3 Zone objectives and land use table

The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

The subject site is zoned SP2 Infrastructure – Educational Establishment and Place of Public Worship under the BLEP 2015. An educational establishment is permissible within the zone with consent. The proposal is defined as an '**educational establishment**' which is a building or place used for education (including teaching), being:

- (a) a school, or

- (b) a tertiary institution, including a university or a TAFE establishment, that provides formal education and is constituted by or under an Act, and the development meets the objectives of the zone.

8 Blacktown Development Control Plan (DCP) 2015

a. *Compliance with the controls within the Blacktown Development Control Plan 2015*

The provisions of the Blacktown Development Control Plan 2015 (BDCP) Part A – General Guidelines and Part C – Development in the Residential zones apply. The table below demonstrates that the proposal is compliant with the BDCP.

Blacktown Development Control Plan 2015 – Part A Introduction and General Guidelines			
Development standard	Requirement	Proposal	Compliant
Land to which this DCP applies	Permissible use in the zone	Site is located on land to which this DCP applies, being land that is zoned under BLEP 2015.	Yes
Relationship of this DCP to other Acts etc.	DCP relates to EPA Act 1979, EPAR 2000, SEPPs, LGA 1993, BCA and LEC Planning Principles. If there are any inconsistencies with the Acts, SEPPs and EPIs prevail over the DCP.	Proposal is in accordance with the DCP.	Yes
Notification	Proposal is required to be notified in accordance with Table 3.1	Proposal was notified for 14 days. No submissions were received.	Yes
Environmental protection – areas requiring fill	A cut and fill plan is to be tendered that complies with Council's Engineering Guide to Development	Cut and fill plan submitted. Conditions of consent will be imposed re type of fill and compaction of soil.	Yes
Tree preservation	Where possible trees are to be retained.	Five trees are to be removed, as they are in the area of the proposed works. Compensatory replacement trees at a rate of 2:1 are proposed.	Yes, subject to conditions
Car parking	Existing car parking arrangements under DA-05-3572, Multi-purpose hall, provided for 176 car parking spaces on site.	No alteration in arrangements: staffing or student numbers, type of use, traffic access, parking arrangements, public transport arrangements, or hours/days of operation.	Yes
Signs	N/A	The applicant does not propose any signage as	N/A

		part of this development, and as such would not be seen due to the proposed Block O being located in the middle of the site.	
Services	Services are to be available	Existing services are available, and these are suitable for the form of development proposed. These services will be extended and adapted, and augmented where necessary.	Yes, subject to conditions
Solar Access	Solar access is to be maintained, to ensure existing and future amenity of the surrounding residential area is not affected adversely	The proposal complies with the overshadowing standard of the SEPP Infrastructure Amendment (Schools and TAFE Establishments) 2008. Solar access diagrams have been provided which demonstrate that due to the location within the site of proposed Block O, there is no adverse impact on solar access for surrounding residential development, and thus complies with the BDCP.	Yes
Development on flood-prone land	The north-east of the lot, which is outside of the site area, is identified as flood prone, being within the 1 in 100 year flood extent.	Addressed at Section 7 above.	Yes

Blacktown Development Control Plan 2015 – Part C Non-residential Development in the Residential Zones

Development standard	Requirement	Proposal	Compliant
Permissibility	An ' educational establishment ' is defined as a building or place used for education (including teaching), being: (a) a school, or (b) a tertiary institution, including a university or a TAFE establishment, that provides formal education and is constituted by or under an Act.	Alterations and additions to Catholic girls' secondary college (Nagle College established 1965) proposed. No alteration in arrangements: staffing or student numbers, type of use, traffic access, parking arrangements, public transport arrangements, or hours/days of operation.	Yes

Demolition	The demolition of a building may only be carried out with development consent.	A demolition plan and waste management plan have been provided. Conditions in relation to compliance with EPA requirements relating to demolition will be imposed.	Yes
Scale	A range of non-residential land uses depending upon their scale may be compatible with adjoining residential uses.	The proposed development which is increasing the floor area from 949 sqm to 1729 sqm located over two levels is within the existing scale and location of the current development, being in the north-west of the 8.077 hectare site. The development site area has an area at ground level of 1654 sqm. The contours of the site show a fall of 1.2 metres to the north.	Yes
Locational Preferences	Preferable: - Access to collector roads and public transport routes - Sufficient buffering to adjoining developments	Proposal is to be carried out in an existing location. Nagle College was established on site in 1965. Location of new building is within the site area of three existing buildings proposed to be demolished. Access to roads and public transport routes is unchanged. There is sufficient buffering to adjoining developments.	Yes
Urban Design	Design is to be in character with surrounding residential development. General objective for non-residential development in residential zones: such development should be similar in bulk, scale, form, height, siting and appearance to the surrounding built residential environment. Special attention to design, finishes, roof form, materials, paving and landscaping may be required.	The proposal in terms of its design, height, scale and location will have minimal impact on surrounding residential development. Council's Senior Architect has reviewed the plans and proposal and is in support of the DA. He has advised that: "the project demonstrates an appropriate palette of materials suitable for its intended use. The building form and external appearance is strong and primarily addresses the eastern	Yes, subject to conditions .

		courtyard however all sides of the building provide elements of visual interest through its geometries and material application."	
Noise	Noise impact assessment may be required	N/A – no intensification of use or change in location or change in use of educational blocks.	N/A
Pedestrian Safety Measures	Appropriate pedestrian safety measures are installed, including pedestrian crossings, pedestrian refuges on streets and provision of bus bays and 40kph speed zones for schools.	N/A – no intensification of use or change in location or change in use of educational blocks. Current pedestrian access arrangements remain unchanged.	N/A
Landscaping	Landscape plan is to be submitted demonstrating suitable landscaping to protect adjoining properties. Landscaping is to complement the development.	A landscape plan has been submitted as part of the DA, and demonstrates general landscaping to provide a buffer to existing adjoining buildings on site. The landscaping will complement the development. Council's project officer has reviewed the landscaping plan and tree removal plan and supports the proposal, and advises compensatory tree planting of 10 trees of the same or similar species to the five trees being removed is required.	Yes Suitable conditions will be imposed on any consent to address landscaping and replacement tree planting.
Traffic-generating potential, car parking and loading facilities; off-street parking	Educational Establishment – Secondary School 1 space per staff members plus 1 space per 100 students and space for delivery vehicles, drop-off area and buses as appropriate. Traffic report may be required. Adequate car parking and loading facilities are to be provided.	N/A – no increase in staff or student numbers; no change in current traffic access and car parking arrangements. The Applicant has identified that the secondary school with a maximum of 900 students, 70 teachers and 40 administrative staff will have no change in student or staff numbers. No increase in parking demand. No alteration to current	N/A Condition for current car parking provision of 176 spaces as approved under DA-05-3572 Multi-purpose Hall to remain unchanged.

		delivery and waste collection arrangements.	
Height	Not mapped under BLEP	Proposed building height of 9.34 m is replacing three existing educational blocks which were single and two-storey in height. No adverse impact on surrounding residential area will result, and the proposal is not out of character.	Yes
Setbacks	Non-residential buildings shall be setback in line with adjoining residential development.	The proposal provides building setbacks as follows: Southern boundary: 201m setback Northern boundary: 28m setback, and 10.5m from existing Block L Eastern boundary: 205m setback; and 3.9m from existing Block F Western boundary: 60m setback, and 6.4m from existing Block F. The buildings are within the site, and comply with the setback requirements of the BDCP.	Yes
Access	Adequate provision is to be made for access by persons with a disability	All setbacks and landscaping areas are accessible, and comply with the accessibility requirements of the BDCP, and will be conditioned to comply with the requirements of the Access to Premises Standard.	Yes, subject to conditions
Specific design requirements for schools	School Facilities Standards are required to be addressed and incorporated in the design of a school.	Refer to Section 3 above in this attachment which addresses this.	Yes
Blacktown Development Control Plan 2015 – Part G Site Waste Management and Minimisation			
Development standard	Requirement	Proposal	Compliant
Site waste management	Waste management plan to be provided	A WMP has been prepared and submitted as part of the DA. Current waste arrangements remain unchanged. Appropriate	Yes

		conditions have been imposed relating to waste management during construction.	
Blacktown Development Control Plan 2015 – Part I Contaminated Land Guidelines			
Development standard	Requirement	Proposal	Compliant
Asbestos presence	Where asbestos is to be removed, it is to be in accordance with EPA Guidelines.	The applicant has provided a Site Investigation Report and Hazardous Materials Review, as the three buildings to be removed and the immediate surrounds have asbestos present. Refer to discussion above in Section 4, against SEPP No. 55 – Contamination of Land. Council's Building section has reviewed the proposal and provided suitable conditions.	Yes