

COUNCIL ASSESSMENT REPORT

Panel Reference	2018SCL037
DA Number	DA-2018/1073
LGA	Bayside Council
Proposed Development	Alterations and additions to the existing St Michael's Catholic Primary School and construction of a three (3) storey educational facility fronting Haig Avenue to accommodate an additional 202 students including car parking fronting Banks Avenue
Street Address	31 Banks Avenue, Daceyville
Applicant/Owner	Sydney Catholic Schools, Archdiocese Sydney C/- JDH Architects/ Trustees of the Roman Catholic Church Archdiocese of Sydney
Date of DA lodgement	3 May 2018
Number of Submissions	Round One – Two (2) objections Round Two – Four (4) objections
Recommendation	Approval, subject to conditions of consent
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Development with a CIV of \$6,829,900 – Private infrastructure and community facilities over \$5,000,000
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • Environmental Planning & Assessment Act 1979, Part 4 – Development Assessment & Schedule 7 of the SEPP- State and Regional Development 2011 which regional panels may be authorised to exercise consent authority functions of councils • Environmental Planning & Assessment Regulation 2000, Part 6 – Procedures relating to Development Applications • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy No. 55 – Remediation of Land • State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 • Botany Bay Local Environmental Plan 2013 • Botany Development Control Plan 2013
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Architectural plans – JHD Architects • Statement of Environmental Effects – Robinson Urban Planning • Clause 4.6 variation – Robinson Urban Planning
Report prepared by	Angela Lazaridis – Senior Development Assessment Planner
Report date	1 May 2019

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?
e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP **Yes**

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

No

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment?

Yes

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

SYDNEY EASTERN CITY PLANNING PANEL PANEL DETERMINATION MEETING

SECPP No	2018SCL037
DA Number	DA-2018/1073
Local Government Area	Bayside Council
Proposed Development	Alterations and additions to the existing St Michael's Catholic Primary School and construction of a three (3) storey educational facility fronting Haig Avenue to accommodate an additional 202 students including car parking fronting Banks Avenue
Street Address	31 Banks Avenue, Daceyville
Applicant	Sydney Catholic Schools, Archdiocese Sydney C/- JDH Architects
Owner	Trustees of the Roman Catholic Church Archdiocese of Sydney
Number of Submissions	Two (2) objections – Round One Four (4) objections – Round Two
Regional Development Criteria (Schedule 7 of the SEPP)	Development with a CIV of \$6,829,900 – Private infrastructure and community facilities over \$5,000,000
List of All Relevant s4.15(1)(a) Matters (previously Section 79C)	<ul style="list-style-type: none"> ○ Environmental Planning & Assessment Act 1979, Part 4 – Development Assessment & Schedule 7 of the SEPP- State and Regional Development 2011 which regional panels may be authorised to exercise consent authority functions of councils ○ Environmental Planning & Assessment Regulation 2000, Part 6 – Procedures relating to Development Applications ○ State Environmental Planning Policy (Infrastructure) 2007 ○ State Environmental Planning Policy No. 55 – Remediation of Land ○ State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 ○ Botany Bay Local Environmental Plan 2013 ○ Botany Development Control Plan 2013
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RECOMMENDATION

In view of the below comments, it is RECOMMENDED that the Sydney Eastern City Planning Panel (SECPP), as the Consent Authority, resolve to:

- a) Grant consent to the Clause 4.6 variation request under Botany Bay Local Environmental Plan 2013 to permit a maximum height of 10.9m (RL 32.25m) for the height of building;
- b) Grant approval of Development Application No. 2018/1073 for the alterations and additions to the existing St Michael's Catholic Primary School and construction of a three (3) storey educational facility fronting Haig Avenue to accommodate an additional 202 students including car parking fronting Banks Avenue at 31 Banks Avenue, Daceyville, subject to the conditions of consent in the attached Schedule.

The reasons for approval are as follows:

- a) The proposal generally satisfies the requirements of the State Environmental Planning Policy (Educational Establishment and Child Care Facilities) 2017;
- b) The proposal is consistent and conforms to the heritage context of the heritage items on site as well as the Daceyville Garden Suburb Heritage Conservation Area; and
- c) The development contributes much needed additional capacity for infants schooling (K to 6) in the area.

EXECUTIVE SUMMARY

Council received Development Application No. 2018/1073 on 3 May 2018 for the alterations and additions to the existing St Michael's Catholic Primary School and construction of a three (3) storey educational facility fronting Haig Avenue to accommodate an additional 202 students including car parking fronting Banks Avenue at 31 Banks Avenue, Daceyville.

The Development Application is required to be referred to the Sydney Eastern City Planning Panel (SECPP) pursuant to Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011 as the development has a capital investment value of more than \$5 million for the purpose of an educational establishment.

The Development Application was advertised for a period of fourteen (14) days between 23 May to 6 June 2018. Two submissions were received during the public notification period. Further amended plans were re-notified to objectors for a period of fourteen (14) days between 24 January to 7 February 2019. A further four (4) objections were received. Issues raised in the objections has been discussed in the report below.

The key issues in the assessment of the development application include building height non-compliance, heritage and car parking issues. The proposal seeks a variance of 2.4 metres to the 8.5 metre building height control with the building proposed at 10.9 metres. The applicant

has provided a Clause 4.6 variation with the application and this has been assessed in greater detail in the report below. The non-compliance is supported.

In regards to the heritage context of the site and the conservation area that the site is located in, the proposal has undergone numerous revisions to the design of Block C to conform to the context and character of the area. The area is predominantly single storey in height while the proposal is three storeys. The proposal has been setback at the top level away from Haig Avenue to reduce the bulk and scale of the building. Additionally the materials that have been chosen are similar with the materials found in the dwellings along the street which are predominantly masonry. Council's Heritage Advisor has reviewed the amended proposal and is satisfied that the new building fits in with the heritage context of the surrounding area subject to the imposition of conditions.

In regards to the car parking, the proposal includes a new car park located on the south-eastern side of the site with access off Banks Avenue and will accommodate a total of 26 cars at any one time which will be 15 spaces for staff and 11 spaces as drop off and pick up spaces. The location of the car parking area is located within the front setback of the site however the applicant is proposing to landscape the area so that it is not as dominant from the streetscape. Traffic issues generated by the car park have been considered by Councils' Engineers and appropriate conditions have been included within the consent.

In summary, the proposed DA has been assessed against the relevant controls, and on balance, Council is generally supportive of the proposal. It is recommended that the application be issued with an approval, subject to conditions of consent as attached in Schedule 1.

SITE DESCRIPTION AND SURROUNDING LOCALITY

The subject site is legally known as 31 Banks Avenue Daceyville and is identified as Lot 1 in DP 186759 and Lot 1 in DP 666538. The site is located on the western side of Banks Avenue between Wills Crescent to the north and Gwea Avenue to the south. The site is bound to the rear by Haig Avenue.

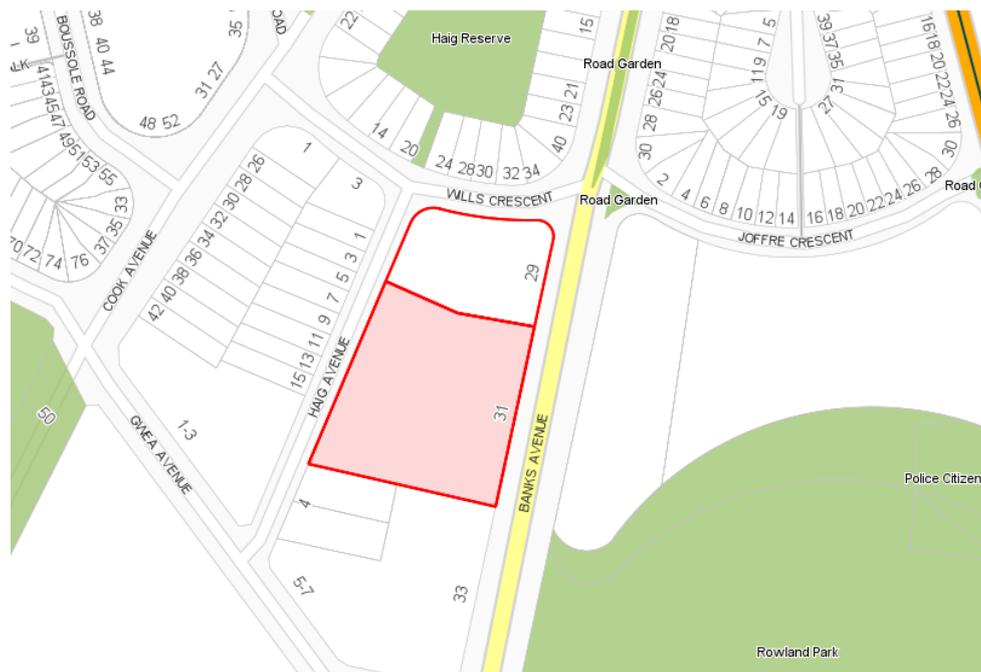


Figure 1. Locality Plan



Figure 2. Aerial Map of site

The site is generally flat and is irregular in shape with a street frontage boundary of 102sqm along Banks Avenue, a rear boundary length of 100 metres along Haig Avenue, a side boundary length of approximately 40 metres along Wills Crescent and a southern boundary length of 97.5 metres. The site has a total area of 11,826sqm.

The site is zoned R2 – Low Density Residential and contains two heritage items identified as I114 – Marist Brothers School and Presbytery) and I115 – Former St Michael’s Church (now hall). The site is also located within the Daceyville Garden Suburb Heritage Conservation Area. The site is located within a 20-25 ANEF Contour and is flood affected.

The site currently comprises of two major buildings which includes the school (Block A) and the hall, formerly the St Michael’s Church (Block B) to the north of the site, a basketball court, demountables on the north-eastern side of the site, several open areas located around the hall and to its northern side. Additionally, the site also contains the new St Michaels Church and the parish offices. The site comprises of vegetation including a number of trees.



Figure 3. Location of new car parking area off Banks Avenue



Figure 4. Location of new building (Block C) replacing existing basketball court and shed



Figure 5. Location of existing school on the southern side of the site

Development surrounding the site is predominantly low density dwellings along Haig Avenue and Wills Crescent which are contained within the heritage conservation area. These dwellings are generally detached and semi-detached single storey dwellings. To the east of the site, Daceyville Public School is located as well as Rowland Park. To the south of the site, there is a monastery, housing and Sydney Catholic Schools offices as well as UNSW sporting fields further along Banks Avenue.

BACKGROUND

Site History

- 16 September 2009 – An Authorisation was granted under the Nation Building and Jobs Plan (State Infrastructure Delivery) Act 2009 for the construction of an addition to the library, refurbishment of student and staff amenities, refurbishment of classrooms and administration and general learning area, landscaping and associated works.
- 18 July 2017- Pre-DA meeting was carried out between the applicant and Council. Notes of the meeting were distributed to the applicant on 1 November 2017
- 2 November 2017 – Proposal was presented to a Design Review Panel meeting
- 13 November 2017 – Informal pre-DA meeting was carried out with Council where the applicant was provided with heritage comments and required amendments to the design

Development Application History

- 3 May 2018 – Development Application was lodged with Council
- 23 May to 6 June 2018 – Application was placed on public notification
- 27 June 2018 – Site inspection was carried out

- 24 July 2018 – Amended plans provided to Council demonstrating greater setback of the top level of the new building from Haig Avenue and redesign of the building
- 26 July 2018 – Panel site inspection and briefing carried out
- 28 August 2018 – Meeting with the applicant was carried out to discuss proposal and amendments to plans
- 31 August 2018 – Draft plans were provided by the applicant for comment
- 3 October 2018 – Amended plans were provided and were discussed with Council who requested additional material
- 13 November 2018 – Amended plans and documentation was provided to Council
- 21 January 2019 – Council requested additional information relating to an amended noise report, aircraft noise report and canteen plan
- 24 January to 7 February 2019 – The application was re-notified to objectors for fourteen (14) days on the amended plans and documentation. Four submissions were received
- 7 February 2019 – Amended reports and canteen plan was submitted to Council for assessment

DESCRIPTION OF PROPOSED DEVELOPMENT

The proposed development, as amended, is for the alterations and additions to the existing St Michael's Catholic Primary School and construction of a three (3) storey educational facility fronting Haig Avenue to accommodate an additional 202 students including car parking fronting Banks Avenue.

The proposal is further broken down as follows:

- Minor demolition works including the existing playground area, metallic shade structure, part of Block A, concrete paths and removal of the existing demountable classrooms and storage shed
- Construction of a new three storey school building (Block C) which includes:
 - Ground Floor: Open undercroft area, toilet facilities, communications room and canteen
 - First Floor: Four general learning areas, breakout area and toilet facilities
 - Second Floor: Four (4) General Learning Areas, breakout area, outdoor breakout area and toilet facilities
 - Covered (metal sheet roof) connections to existing Block B (Hall) and Block A (School)
- Alterations and additions to Block A comprising:
 - Demolition of northern wing extension
 - Reconfiguration of some internal spaces through the removal of internal partition walls
 - Erection of new shade structure to north-west of building
 - Erection of new covered outdoor learning area (COLA) to rear of the building

- New on-site car parking area:
 - 15 car parking spaces for staff
 - 11 spaces for drop off/pick up
 - 26 spaces in total with left in and left out movements from Banks Avenue
- Removal of trees along Banks Avenue and Haig Avenue boundaries
- Increase in population comprising of a total of:
 - 470 students (268 existing + 202 proposed)
 - 18 staff (existing/proposed)

The below figures demonstrate the proposed development:

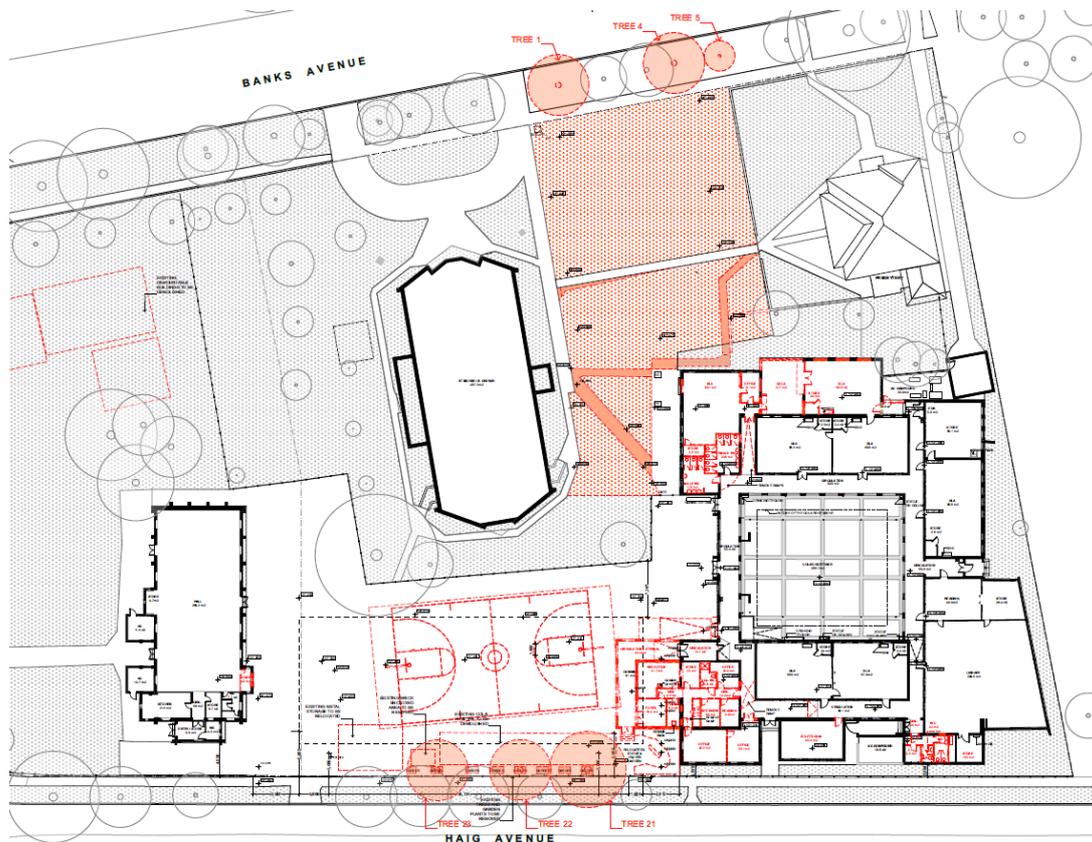


Figure 6. Existing/Demolition Plan



Figure 7. Proposed Site Plan

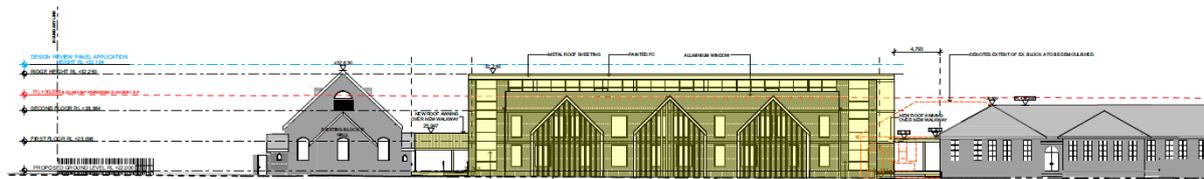


Figure 8. Proposed Western Elevation (showing new building)- Block A and C

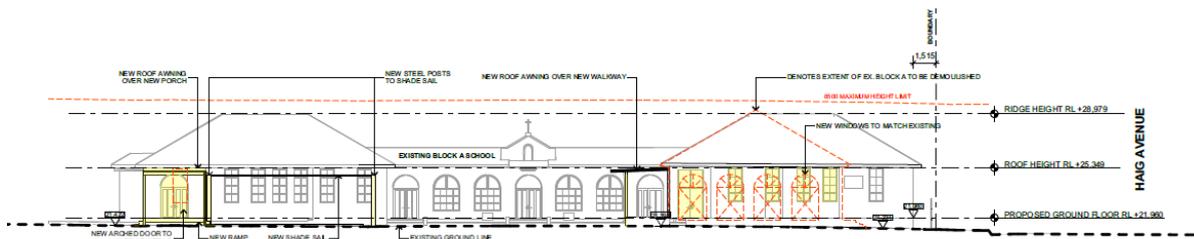


Figure 9. Northern Elevation (Block A) demonstrating changes to existing buildings

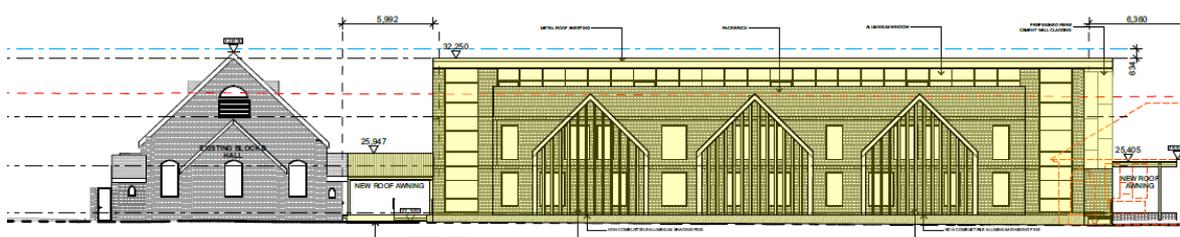


Figure 10. Proposed Western Elevation of new Building (Block C)



Figure 11. Proposed Eastern Elevation of new Building (Block C)

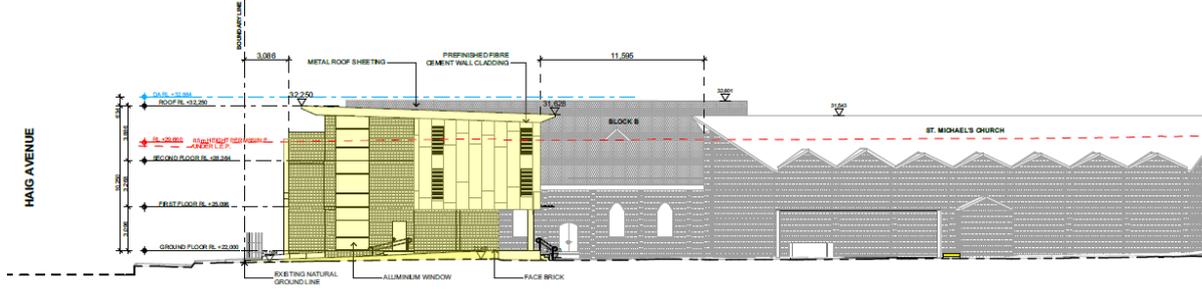


Figure 12. Proposed Southern Elevation of new building (Block C)

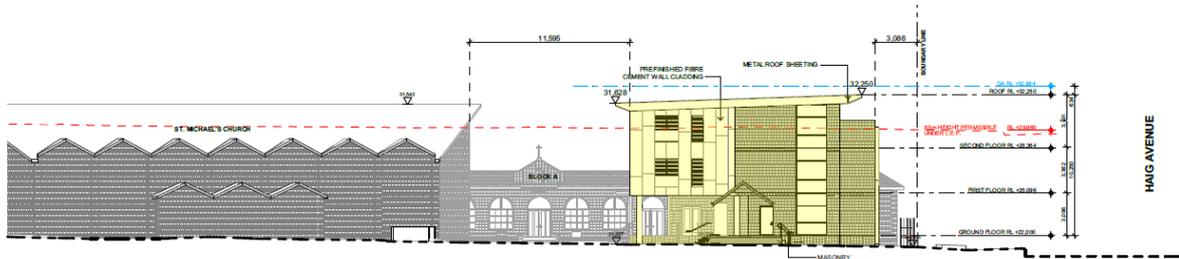


Figure 13. Proposed Northern Elevation of new building (Block C)



Figure 14. Photomontage of new building from Haig Avenue

SECTION 4.15 CONSIDERATIONS

In considering the Development Application, the matters listed in Section 4.15 of the *Environmental Planning and Assessment Act 1979* have been taken into consideration in the preparation of this report and are as follows:

(a) Provisions of any Environmental Planning Instrument (EPI), draft EPI and Development Control Plan (DCP)

State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of SEPP 55 have been considered in the assessment of the Development Application, along with the requirements of Part 3K of the Botany Bay Development Control Plan 2013 relating to Contaminated Land. Clause 7 of SEPP No. 55 requires Council to be certain that the site is or can be made suitable for its intended use at the time of determination of an application.

The proposal does not seek any major excavation for the new building which will be constructed on slab with minor footings. The application was referred to Councils' Environmental Scientist for comments who had no conditions to impose and was satisfied that the proposal is suitable for the site as the use of the site has been consistently used for the purposes of a school or church related premises.

Given the above, Council is certain the site is suitable for its intended use at the time of the determination of this application. Therefore, the proposed development satisfies the relevant provisions of SEPP No. 55.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

The State Environmental Planning Policy (Vegetation in Non- Rural Areas) 2017 (Vegetation SEPP) regulates the clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent and applies to the Sydney and Newcastle, metropolitan areas. The aims of the policy are (A) to protect the biodiversity values of trees and other vegetation in non-rules of the State and (b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

The vegetation SEPP repeals clause 5.9 and 5.9AA of the Standard Instrument – Principal Local Environmental Plan and substantially reproduces the effect of these clauses in the Vegetation SEPP. Council will continue to regulate the clearing of vegetation (including native vegetation below the BOS thresholds through the DCP).

The proposal seeks to remove a total of thirteen (13) trees from within the site (T1, 4-11, 17 and 21-23) and proposes nine (9) additional trees that are capable of obtaining a minimum height of 5 metres at maturity (minimum 75L container in size) are included in the final landscape plan to maintain local amenity and biodiversity. Three of the trees to be removed are street trees along Banks Avenue to allow for the new driveway for ingress and egress from the car park as well as to allow for appropriate sight lines to be provided to Banks Avenue. The other trees are located within the area of the car park (Trees 6 to 11 and 17) and where the new Block C will be built (Trees 21-23). Protection measures of the existing trees have been recommended. This is discussed in greater detail in the arboricultural impact assessment as well as the addendum report to the arboricultural impact assessment prepared by Graham Brooks Arboricultural Tree Services Pty Ltd dated 6 November 2018.

The application was reviewed by Council's Tree Preservation Officer as well as Landscape Architect who have imposed appropriate conditions of consent in the attached Schedule relating to new tree species, protection of trees and removal of the trees.

Subject to planting of replacement trees, the proposal is satisfactory in relation to SEPP (Vegetation in Non-Rural Areas) 2017 and Part 3L of the BBDCP 2013.

State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

Part 4 of the SEPP relates to specific development controls for schools. The below is an assessment of the proposal against these controls as relevant:

Clause 35 – Schools – Development permitted with consent

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

The site is located within an R2 Low Density Residential zone which is a prescribed zone therefore the educational establishment is permissible.

- 2) *Development for a purpose specified in clause 39 (1) or 40 (2) (e) may be carried out by any person with development consent on land within the boundaries of an existing school*

N/A. Complying development cannot be carried out on site as the site is a heritage item.

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

The site is in a prescribed zone therefore complies.

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

The site is a heritage item therefore development consent is required by the consent authority.

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

The proposal is for the use of a school predominantly.

- 6) *Before determining a development application for development of a kind referred to in subclause (1), (3) or (5), the consent authority must take into consideration:*

a. the design quality of the development when evaluated in accordance with the design quality principles set out in Schedule 4, and

b. whether the development enables the use of school facilities (including recreational facilities) to be shared with the community

This is addressed in the Schedule 4 discussion below.

- 7) *Subject to subclause (8), the requirement in subclause (6) (a) applies to the exclusion of any provision in another environmental planning instrument that requires, or that relates*

to a requirement for, excellence (or like standard) in design as a prerequisite to the granting of development consent for development of that kind

Noted.

- 8) *A provision in another environmental planning instrument that requires a competitive design process to be held as a prerequisite to the granting of development consent does not apply to development to which subclause (6) (a) applies that has a capital investment value of less than \$50 million*

The proposal did not undergo a design competition however was subject to a design review panel prior to lodgment.

- 9) *A provision of a development control plan that specifies a requirement, standard or control in relation to development of a kind referred to in subclause (1), (2), (3) or (5) is of no effect, regardless of when the development control plan was made.*

Councils' DCP does not have any controls relating to educational establishments therefore an assessment under the SEPP has been carried out.

- 10) *Development for the purpose of a centre-based child care facility may be carried out by any person with development consent on land within the boundaries of an existing school.*

There are no child care facilities within the school

- 11) *Development for the purpose of residential accommodation for students that is associated with a school may be carried out by any person with development consent on land within the boundaries of an existing school*

There is no residential accommodation within the school.

Clause 57 – Traffic Generating Development

This clause applies to educational establishments that will result in the educational establishment being able to accommodate 50 or more additional students and that involves an enlargement or extension of the existing premises on a site that has direct vehicular or pedestrian access to any road. The proposal seeks to accommodate an additional 202 students within the site and proposes a new car park to accommodate 15 car spaces for staff and 11 drop off/pick up spaces. The application was referred to RMS for comment however no comments have been provided back to this date. The application was assessed by Council's Development and Traffic Engineers who had no objections to the proposal subject to the imposition of conditions of consent.

Schedule 4 – Schools – Design Quality Principles

Schedule 4 requires developments to consider seven design quality principles for schools. The principles are as follows with an assessment against each one:

Principle 1—context, built form and landscape

Schools should be designed to respond to and enhance the positive qualities of their setting, landscape and heritage, including Aboriginal cultural heritage. The design and spatial

organisation of buildings and the spaces between them should be informed by site conditions such as topography, orientation and climate.

Landscape should be integrated into the design of school developments to enhance on-site amenity, contribute to the streetscape and mitigate negative impacts on neighbouring sites.

School buildings and their grounds on land that is identified in or under a local environmental plan as a scenic protection area should be designed to recognise and protect the special visual qualities and natural environment of the area, and located and designed to minimise the development's visual impact on those qualities and that natural environment.

Applicant's Comment:

The intention is to provide a high quality contemporary school building that is sensitive to its heritage context, rather than a pastiche that attempts to mimic the existing historic building styles on site. The building design of Block C incorporates forms and proportions taken from the existing buildings and reinterprets them in a modern way, creating geometrical rhythms and relationships across the site that will give a more harmonious appearance, particularly from the Haig Avenue street frontage.

Officer Comment:

The built form has taken into consideration the topography, site constraints and existing building stock in the immediate locality. The disadvantages of the site and area is that there are a number of heritage items on site as well as in the surrounding streets that form a certain built form and height proportion. In addition to the site being located within an HCA, the proposal has had many revisions to attempt to fit in with the scale of the surrounding developments. The topography is generally flat and the new Block C has attempted to setback the upper levels to reduce the impact of bulk and scale from Haig Avenue.

The proposal provides for additional landscaping to be incorporated around the new Block C along Haig Avenue as well as within the new car park area. The landscaping will assist in obscuring the built form from both streets as well as alleviating the impact of hard surfaces when viewed from the surrounding streetscapes and adjoining residences.

Principle 2—sustainable, efficient and durable

Good design combines positive environmental, social and economic outcomes. Schools and school buildings should be designed to minimise the consumption of energy, water and natural resources and reduce waste and encourage recycling.

Schools should be designed to be durable, resilient and adaptable, enabling them to evolve over time to meet future requirements.

Applicant's Comment:

New building materials are durable, resilient and adaptable to allow the school to evolve and change over time.

Officer Comment:

The materials that are used are supported and justified by the applicant above. The application was accompanied by a Section J report which details how the development will achieve appropriate energy efficiency.

Principle 3—accessible and inclusive

School buildings and their grounds should provide good wayfinding and be welcoming, accessible and inclusive to people with differing needs and capabilities.

Note.

Wayfinding refers to information systems that guide people through a physical environment and enhance their understanding and experience of the space.

Schools should actively seek opportunities for their facilities to be shared with the community and cater for activities outside of school hours.

Applicants' Comment:

School facilities specifically designed to meet the needs of its students. School facilities are currently shared with the community.

Officer Comment:

Appropriate signage will be conditioned within the car park to demonstrate ingress and egress from the site. Both the addition of the car park and Block C are prevalent on the site and will not require further wayfinding methods for their location.

The site is shared by the school as well as St Michaels Catholic War Memorial Church. The car park location is directly to the south of the church. It could be assumed that the car parking area could be utilised by patrons of the church outside of school hours hence addressing the facilities being shared with the community. This goes the same with any school building on the site.

Principle 4—health and safety

Good school development optimises health, safety and security within its boundaries and the surrounding public domain, and balances this with the need to create a welcoming and accessible environment.

Applicants' Comment:

Pedestrian and car park areas will be provided with adequate lighting. New landscaping will not block important sightlines and all entrances and exits are clearly marked and visible.

Officer Comment:

As discussed by the applicant, appropriate lighting and landscaping will be provided with the development application. There is separate pedestrian and vehicle movement and entries which will protect the safety of students, parents and staff. The undercroft area will also provide for appropriate weather protection for students during outdoor usage.

Principle 5—amenity

Schools should provide pleasant and engaging spaces that are accessible for a wide range of educational, informal and community activities, while also considering the amenity of adjacent development and the local neighbourhood.

Schools located near busy roads or near rail corridors should incorporate appropriate noise mitigation measures to ensure a high level of amenity for occupants.

Schools should include appropriate, efficient, stage and age appropriate indoor and outdoor learning and play spaces, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage and service areas.

Applicants' Comment:

The learning spaces allow for inclusive learning that caters to all students and modes of learning. The school site is constrained with limited outdoor play area and potential flooding concerns so it is proposed to raise Block C off the ground and create an undercroft on the ground floor level with two storeys of learning spaces above.

Officer Comment:

As stated above, the undercroft area will protect staff and students from weather conditions as well as provide for greater outdoor learning opportunities. The design of the first and second floor of the new building has utilised appropriate room sizes and breakout areas, both internal and external for students.

The school is not located on a busy road therefore there is no impact from road noise. Regardless, the application was accompanied by acoustic report for aircraft mitigation as well as external noise assessment. The recommendations that were proposed within the reports have been conditioned within the consent.

Principle 6—whole of life, flexible and adaptive

School design should consider future needs and take a whole-of-life-cycle approach underpinned by site wide strategic and spatial planning. Good design for schools should deliver high environmental performance, ease of adaptation and maximise multi-use facilities.

Applicant's Comment:

The proposal continues and improves the existing educational establishments on the site. The proposed alterations and additions will meet the needs of its current and future students.

Officer Comment:

The site is designed and functions as a school and church. The justification of the new building to accommodate a larger amount of students lends itself to the large increase in residential units and density within the surrounding areas. The school is upgrading their grounds to allow for the additional flow of students. The proposed amendments both to existing buildings and new car park and Block C will contribute in doing that.

Principle 7—aesthetics

School buildings and their landscape setting should be aesthetically pleasing by achieving a built form that has good proportions and a balanced composition of elements. Schools should respond to positive elements from the site and surrounding neighbourhood and have a positive impact on the quality and character of a neighbourhood.

The built form should respond to the existing or desired future context, particularly, positive elements from the site and surrounding neighbourhood, and have a positive impact on the quality and sense of identity of the neighbourhood.

Applicants' Comment:

The height, bulk and scale are appropriate for the site and maintain the existing educational form and character of school buildings on site. The design has been amended to address the comments made by Council's heritage advisor.

Officer Comment:

As discussed in Principle 1, the proposal has undergone a large amount of revisions to attempt to have Block C be consistent and conform with the surrounding development and the heritage context of the area and site. The proposal will sit at a height that is below the gable roof ridge of the heritage hall to the north as well as setting back the top floor to further reduce the bulk of the development when viewed from Haig Avenue.

The proposal seeks to construct Block C out of masonry (Brown Brick), non-combustible Aluminium Screen Timber Lock, Aluminium Composite Panel and Metal Roof Sheeting. The masonry is a consistent building material found along the street and within the HCA and is supported. Additionally, Councils' Heritage Advisor has provided support for the revised development subject to the imposition of conditions.

Botany Bay Local Environmental Plan 2013 (BBLEP)

The provisions of the Botany Bay Local Environmental Plan (BBLEP) 2013 have been considered in the assessment of the Development Application and the following information is provided:

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
Land use Zone	-	The site is zoned R2 Low Density Residential zone under the BBLEP 2013.
Is the proposed use/works permitted with development consent?	No – See Note 1 below	The proposed educational establishment is not permissible within the R2 zone under the BBLEP 2013 however the development relies on existing use rights that site currently exercises as there is a school present on the site.
Does the proposed use/works meet the objectives of the zone?	No – See Note 1 below	The proposed development is not consistent with the following objectives of the R2 zone: <ul style="list-style-type: none"> To provide for the housing needs of the community within a low density residential environment.

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
		<ul style="list-style-type: none"> To enable other land uses that provide facilities or services to meet the day to day needs of residents. To encourage development that promotes walking and cycling.
Does Clause 2.5 and Schedule 1 – Additional Permitted Uses apply to the site?	N/A	Clause 2.5 does not apply to the subject site.
What is the height of the building?	No – Refer to Note 2 below	<p>The maximum height allowed on the site is 8.5 metres.</p> <p>The proposed height of both buildings is 10.9 metres.</p> <p>The applicant has provided a Clause 4.6 variation which is discussed in the report below</p>
What is the proposed FSR?	Yes	<p>The maximum FSR allowed on the site is 0.5:1 (5,913sqm).</p> <p>The existing FSR on the site is 2,176.9sqm (0.23)</p> <p>The overall proposed FSR is 0.34:1 (4,042.4sqm) which complies.</p>
Is the site within land marked “Area 3” on the FSR Map	N/A	The subject site is not identified as being within “Area 3” on the FSR map.
Is the land affected by road widening?	Yes	The site is not impacted by road widening
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	Yes	The site is identified as two heritage items which are I114 – Marist Brothers School and Presbytery) and I115 – Former St Michael’s Church (now hall). The site is also located within the Daceyville Garden Suburb Heritage Conservation Area. The proposal was reviewed by Council’s Heritage Advisor who had provided comments relating to amended design. After a review of amended plans, appropriate conditions of consent were provided in the consent.
<p>The following provisions in Part 6 of the LEP apply to the development:</p> <p>6.1 – Acid sulfate soils (ASS)</p> <p>6.2 – Earthworks</p>	<p>N/A</p> <p>Yes</p> <p>Yes</p>	<p>The site falls outside of an acid sulfate soils zone therefore there is no requirement for an acid sulfate soils management plan to be provided.</p> <p>The proposal does not seek to excavate other than for minimal footings as the development is proposed to be constructed on concrete slab.</p>

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
6.3 – Stormwater management 6.9 – Development in areas subject to aircraft noise	Yes	The applicant has provided stormwater plans with the application prepared by AJ Whipps Consulting Group which has stated that a stormwater infiltration system is proposed. The application was reviewed by Council's Development Engineer who had no issues with the proposal subject to conditions of consent being imposed. The subject site lies within the 20-25 ANEF contour. An Acoustic Report, prepared Day Design Pty Ltd on 25 January 2019, has been submitted with the development application, which indicates that the development has been designed to comply with the requirements of AS2021-2000. The report was reviewed by Council's Environmental Health Officers who had no objections with the amended acoustic report subject to conditions of consent being imposed. The development is considered to be consistent with Clause 6.9 of BBLEP 2013.

Note 1 – Permissibility of the use within the R2 Low Density Residential zone

Educational Establishments are prohibited under the R2 Low Density Residential zone within the BBLEP 2013 which the site is currently in. The site comprises of an existing school which is currently in operation therefore there is an argument that the site has existing use rights.

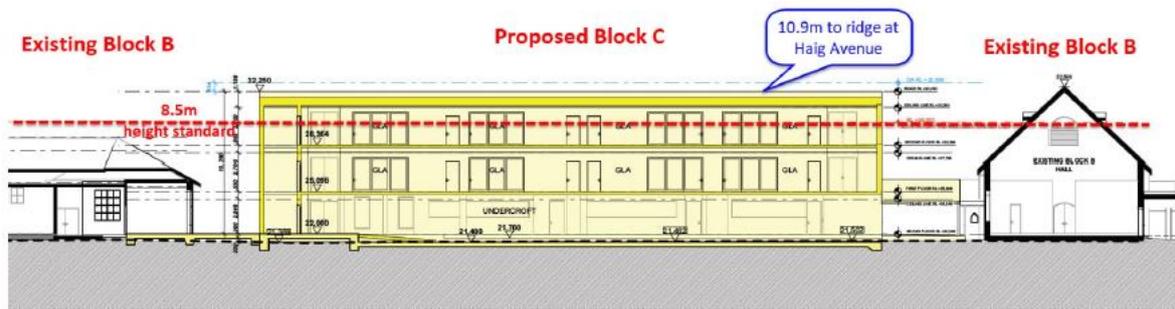
Regardless, Clause 35 of the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 states that development for the purpose of a school may be carried out by any person with development consent in a prescribed zone. The R2 Low Density Residential zone is a prescribed zone therefore any amendments to an existing school or any new addition to the site will be covered under the SEPP and is permissible within the zone.

Note 2 – Variation to the Building Height Development Standard

The applicant has provided a Clause 4.6 variation to the maximum permissible building height of 8.5 metres pursuant under Clause 4.3 of the BBLEP 2013. The proposal has a maximum building height of 10.9 metres. This is an exceedance of 2.4 metres which is a variance of 28%.

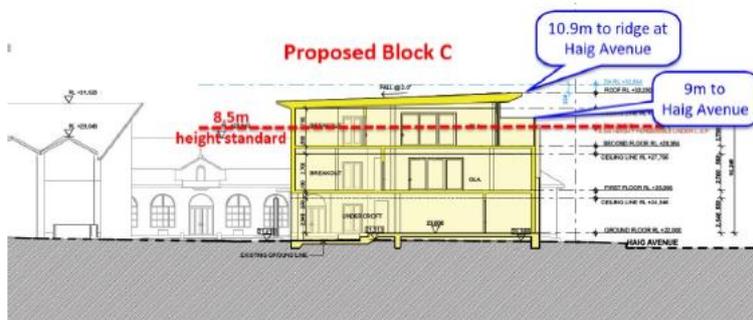
Clause 4.3 of BBLEP 2013 specifies that the height of a building may not exceed the maximum height specified on the relevant Height of Buildings Map. The site is subject to a variable height limit of 14 metres. The proposed development exceeds the maximum height allowance when measured in accordance with the BBLEP definition of building height.

Clause 4.6 provides flexibility to vary the development standards specified within the LEP where it can be demonstrated that the development standard is unreasonable or unnecessary in the circumstances of the case and where there are sufficient environmental grounds to justify the departure. Clause 4.6 states the following:



NTS

Figure 3 – Proposed departure from the 8.5 height standard: Section (Source: JDH, DA-09_C)



NTS

Figure 4 – Proposed departure from the 8.5m height standard: Section (Source: JDH, DA-09_C)



Figure 5 – Photomontage (Source: JDH, DA-12_C)

2.2 Land and Environment Court tests

This section of the amended written request assesses the proposed variation from the height standard against the cl. 4.6 considerations using the accepted tests for the assessment of development standard variations established by the NSW Land and Environment Court in:

- *Initial Action v Woollahra Municipal Council* [2018] NSWLEC 118
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 and *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 ('Four2Five No 3')
- *Wehbe v Pittwater Council* [2007] NSW LEC 82
- *Winten Developments Pty Ltd v North Sydney Council* [2001] NSWLEC 46).

2.3 Clause 4.6(3)

The applicant bears the onus to demonstrate that the matters in cl. 4.6(3) have been adequately addressed by the written request in order to enable the consent authority to form the requisite opinion of satisfaction. The applicant's written request seeking to justify the contravention of the development standard must adequately address both:

- That compliance with the development standard is **unreasonable or unnecessary** in the circumstances of the case (cl 4.6(3)(a)); and
- That there are sufficient environmental planning grounds to justify contravening the development standard (cl 4.6(3)(b)). The following sections justify contravention of the height development standard using these tests.

2.3.1 Clause 4.6(3)(a) (Whether compliance with the development standard is unreasonable or unnecessary)

The common ways in which an applicant might demonstrate that compliance with a development standard is **unreasonable or unnecessary** are summarised by Preston CJ in *Wehbe v Pittwater Council* (2007) 156 LGERA 446. Although *Wehbe* concerned a SEPP 1 objection, the common ways to demonstrate that compliance with a development standard is unreasonable or unnecessary in *Wehbe* are equally applicable to cl 4.6. The five ways to demonstrate compliance is unreasonable/unnecessary are not exhaustive, and it may be sufficient to establish only one way.

The five ways to demonstrate that compliance with is unreasonable or unnecessary and the relevance to this written request are noted below:

1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard

The objectives of the height standard (BBLEP 2013 cl. 4.3(1)) are satisfied as noted below:

(a) to ensure that the built form of Botany Bay develops in a coordinated and cohesive manner,

The proposal has minimal and acceptable environmental impacts (see Amended SEE, Section 4.0).

The proposal considers the environmental impacts of the proposal in regards to heritage, tree removal, car parking, traffic and access, flooding, land use, overshadowing, privacy, noise, aircraft noise, accessibility and the BCA.

(b) to ensure that taller buildings are appropriately located,

Proposed Block C is appropriately located given the heritage, flooding, tree retention and school planning constraints.

(c) to ensure that building height is consistent with the desired future character of an area,

The character of the area is unlikely to change in the future and is expected to remain as education, ecclesiastical and recreation uses on the eastern side of Haig Avenue with residential uses to the west. The proposal retains this arrangement and provides a new high quality infill building.

(d) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,

The proposal would have minimal and acceptable impacts in terms of overshadowing, privacy, noise and views (see Amended SEE, Section 4.0).

Excerpt of SEE:

“Overshadowing:

JDH has prepared shadow diagrams that illustrate the shadow impact of proposed Block C at 9am, 12 noon and 3pm on 22 June and 22 March. The shadow diagrams show that new shadows are contained within the site or fall onto the Haig Avenue road reserve (with no overshadowing of any residential properties or open space).

Visual Privacy:

The proposal does not give rise to any unreasonable privacy issues as proposed Block C does not immediately adjoin any residential uses, Haig Avenue separates it from houses on the western side of Haig Avenue and the western elevation of proposed Block C incorporates screens to the proposed windows.

Noise

An Environmental Noise Assessment has been prepared by Day Design Pty Ltd. The assessment considers potential noise generated by proposed mechanical plant, children in outdoor areas and cars in the car proposed park. A summary of findings follows:

- Mechanical plant: Mechanical plant will likely comply with acceptable noise criteria, subject to a detailed review being carried out once the condenser units have been selected.*
- Car park: Noise impacts from road traffic generation will meet the acceptable noise criteria and is considered to be acceptable.*
- Outdoor play: With the proposed increase in students (from 268 to 470 students), noise from children at outdoor play will exceed accepted noise criteria. However, given the existing noise emissions, the limited duration of outdoor play and the expectation of noise from children at the school, Day Design consider the impact to be acceptable.”*

(e) to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities.

Proposed Block C will have a neutral impact on the Haig Avenue streetscape, as detailed in the SoHI (see Amended SEE, Appendix D).

Excerpt from the SOHI:

“In our view, the following aspects of the proposal would respect the heritage significance of the subject site, the Daceyville Garden Suburb HCA, and heritage items in the vicinity:

- The proposal would not entail the demolition of any heritage items*
- The proposed removal of the intrusive demountable buildings in the north-east of the site would improve views into the site from Banks Avenue*
- The proposed works to the Marist Brothers School and presbytery, one of the heritage items on the site, would entail reconfiguration of non-original internal fabric*
- The removal of the non-original northern wing of the Marist Brothers School and presbytery would result in the reinstatement of the original form of this heritage item*
- The proposed additions to the Marist Brothers School and presbytery would be low impact in nature, noticeably contemporary, and reversible*
- The proposed new building between the two on-site heritage items is of a high-quality contemporary design, the form and materiality of which are sympathetic to the forms and materialities of the surrounding context (including adjacent heritage items)*
- The form, bulk and scale of the proposed new building is, in our opinion, sympathetic and appropriate to the existing heritage context of the site*
- The proposed new building would allow for the retention of adequate curtilage around the two on-site heritage items*
- The proposal is designed for the purpose of continuing the historical functioning of the site as an educational facility*

The construction of a new building, to be located between two heritage items, has the potential to engender a negative impact on the significance of these items. However, it is the assessment of Heritage 21 that the design presents as a high-quality, contemporary solution for the site. We note that the design does not seek to imitate traditional forms and construction, nor does it present as out of context and unsympathetic to its surrounds – rather, the thoughtful use of materials and the simple yet articulated building envelope would present as a neutral, humble introduction to the streetscape and to the Daceyville Garden Suburb HCA. As such, Heritage 21 can support the proposed scheme.”

Given the above, it is unreasonable and unnecessary in this circumstance to comply with the height development standard.

2. The underlying objective or purpose of the development standard is not relevant to the development, so that compliance is unnecessary;

N/A

The underlying objective or purpose of the standard is relevant to the development and is achieved as outlined in (i) above.

3. Underlying objective or purpose would be defeated or thwarted if compliance was required, so that compliance is unreasonable

N/A

The underlying object or purpose of the standard would not be defeated or thwarted if compliance was required. Flood protection, play space and the educational functionality of the St Michael's Catholic Primary School, however, would be diminished if compliance was mandated as it would necessitate infilling of the undercroft, increase site coverage or deletion of the second floor.

4. The development standard has been abandoned by the council

N/A

5. The zoning of the site was unreasonable or inappropriate so that the development standard was also unreasonable or unnecessary (note this is a limited way of establishing that compliance is not necessary as it is not a way to effect general planning changes as an alternative to strategic planning powers).

This consideration has some relevance in this instance for the following reasons:

(a) The site, which is in Zone R2 – Low Density Residential, is not occupied for residential purposes and instead forms part of an educational and ecclesiastical precinct

(b) The former Botany Bay City Council recognised that Zone R2 may not be suitable for school sites when it prepared a planning proposal to amend the provisions of BBLEP 2013 that apply to school sites, to:

(i) Amend the zoning from Zone R2 – Low Density Residential to Zone SP2 – Education Establishments

(ii) Remove the FSR standard

(iii) Remove the height of buildings standard

(c) The planning proposal was refused by the Greater Sydney Commission (the Minister's delegate) on 26 May 2016 on the grounds "that there is insufficient justification to support the zoning of educational establishments SP2 Infrastructure".

(d) Our research indicates that the Department of Education and Communities objected to the planning proposal and requested that current residential zonings for school sites be retained to be consistent with the Department of Planning and Environment's Practice Note (PN10-001) – Zoning for Infrastructure in LEPs and the aim of providing for school infrastructure under State Environmental Planning Policy (Infrastructure) 2007.

Given the above, the zoning of the site is unreasonable or inappropriate so that an 8.5m height of buildings development standard appropriate for Zone R2 is also unreasonable and unnecessary as it applies to the site and compliance with the standard would be unreasonable or unnecessary

2.3.2 Clause 4.6(3)(b) (Whether there are sufficient environmental planning grounds to justify contravening the development standard (cl 4.6(3)(b))

"Sufficient environmental planning grounds" is a phrase of wide generality (Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 [26]):

Subclause (3)(b) requires a written report to demonstrate that sufficient environmental planning grounds support the contravention of a development standard. The EPA Act or the LEP do not define "sufficient" or "environmental planning grounds". As the Appellant submitted these phrases are of wide generality enabling a variety of circumstances or grounds to justify contravention of the particular development standard. The "sufficient grounds" must be "environmental planning grounds" by their nature. The word "environment" is defined in the EPA Act to mean "includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings".

The environmental planning grounds relied on in the written request under cl 4.6 must be sufficient to justify contravening the development standard. The focus is on the aspect of the development that contravenes the development standard, not the development as a whole. Therefore the environmental planning grounds advanced in the written request must justify

the contravention of the development standard and not simply promote the benefits of carrying out the development as a whole [24].

Four2Five [31]:

Further support for the Commissioner's approach is derived from the use of the word "sufficient". Contrary to the Appellant's submission that this suggests a low bar, I draw the opposite inference, namely that the written report must address sufficient environmental planning grounds to inform the consent authorities finding of satisfaction in cl 4.6(4)(a)(i).

Using these test, there are **sufficient environmental planning grounds** to vary the height development standard in this instance given that:

- **Flooding:** Flood levels provided by Council preclude the provision of habitable rooms at the ground floor and inhibit. The proposed undercroft addresses flooding, but increases building height
- **Function:** The functional requirements of the proposal necessitate a two storey form to accommodate the school's educational requirements (eight new classrooms).
- **Play space:** An increase in height reduces site coverage and increases the available play space increasing student amenity and activity.
- **Density:** The proposal is below the FSR standard (0.5:1 permitted and 0.34:1 is proposed) therefore the height non-compliance does not increase the planned density on the site.
- **Heritage:** The proposed additional height increases the curtilage provided around heritage items on the site and the heritage impacts of proposed Block C are satisfactory. The design of proposed Block C has been amended to address concerns raised by Council's Heritage Advisor who has given in principle support to the amended proposal.
- **Trees:** An increase in height minimises site coverage and tree removal.
- **Amenity:** The additional height does not give rise to any adverse amenity impacts (shadows, views, privacy etc).
- **Streetscape:** The street frontage height of proposed Block C is 9m, with the maximum height of 10.9m achieved at the ridge only (see **Figures 2 to 5**).
- **Design Review Panel:** The Design Review Panel considered that the "design is generally of a high quality and appropriate to its context" subject to a 200mm reduction in height (and several other matters that have been addressed). As amended, the height of proposed Block C is 934mm lower than the original scheme presented to the Design Review Panel (from RL 33.184 in the pre-DA to RL 32.250 in the amended plans).
- **Relevance of the zoning and height standard:** The zoning of the site (Zone R2) is unreasonable/inappropriate so that an 8.5m height of buildings development standard is also unreasonable/unnecessary as it applies to the site and compliance with the standard would be unreasonable or unnecessary.
- **Compliance options:** Compliance with the standard (whilst retaining the required number of new classrooms) would necessitate the provision of habitable rooms at the ground level, breaching the required flood levels and reducing the available play space. An alternative compliance strategy would be to reduce the building height by one storey and increase the footprint. This would also reduce the available play space, reduce the curtilage around heritage items on the site, and increase tree loss.
- The non-compliance with the development standard allows for an orderly use of the land and the proposal has been designed with consideration to the desired future character of the area.
- Additionally, the Objects of the Act are satisfied as:
 - The departure from the height standard will have no negative consequences in terms of the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities,

- towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment; and
- The departure from the height standard allows for the orderly and economic use of the site in a manner which otherwise achieves the outcomes and objectives of the relevant planning controls.

2.4 Clause 4.6(4)(a)

Clause 4.6(4)(a) establishes preconditions that must be satisfied before a consent authority (or the court exercising the functions of a consent authority) can exercise the power to grant development consent.

The first opinion of satisfaction in cl 4.6(4)(a)(i) is that the written request has addressed subclause (3). As demonstrated above at Section 2.3, the written request has addressed both parts of cl. 4.6(3). Demonstrating:

- That compliance with the height standard is unreasonable and unnecessary; and
- That there are sufficient environmental planning grounds to justify contravening the development standard.

The second opinion of satisfaction in cl 4.6(4)(a)(ii) is that the proposed development will be in the public interest because it is consistent with the objectives of the development standard that is contravened and the zone objectives. The consent authority must be satisfied that the development is in the public interest because it is consistent with these objectives, not simply that the development is in the public interest.

The consistency of the development with the objectives of the development standard is addressed above at Section 2.3.1.

The consistency of the development with the objectives of Zone R2 is noted below, demonstrating that the development is in the public interest

(a) To provide for the housing needs of the community within a low density residential environment.

N/A

The site is not used for residential purposes.

(b) To enable other land uses that provide facilities or services to meet the day to day needs of residents.

The proposal improves an existing school that provides a facility to meet the day to day needs of residents. It also provides additional primary school places in an area where demand is high. The proposed number of classrooms will service this demand for additional primary school places. Compliance with the height standard (whilst retaining the required number of new classrooms) would necessitate:

- The provision of habitable rooms at the ground level, breaching the required flood levels and reducing the available play space; or
- A reduction in building height by one storey and an increase in building footprint. This would also reduce the available play space, reduce the curtilage around heritage items on the site, and increase tree loss.

A reduction in classrooms/school places or the alternative design options described above that would achieve compliance would be contrary to Zone Objective (b) as the complying development would not meet the educational day to day needs of children residents in the area in particular:

- *There would be insufficient classrooms/school places to meet the high demand for primary school places; or*
- *The quality of the school environment would be diminished in terms of play space, trees, heritage and flood protection.*

(c) To encourage development that promotes walking and cycling.

Travel to the site by walking or cycling is to be encouraged.”

Officers' Comment:

The Clause 4.6 variation to the building height development standard has been assessed in accordance with the BBLEP 2013.

As discussed in greater detail in the report below, there have been many amendments to the plans in order to confirm and be consistent with the heritage context of development within the surrounding streets and heritage conservation area. The proposal was amended to allow the top floor a 2.57 metre setback from the ground and first floor of the new building which will allow for a two storey wall along the street which is consistent with the other buildings towards the south of the site along Haig Avenue which is also two storey. Additionally Council supports the applicants' justification for the following reasons:

- The site is partially flood affected therefore should the development lose the undercroft and contain the building as two stories, the ground floor would have to be raised to accommodate the minimal habitable flood level.
- The functionality of the new building and classrooms require a two storey built form for eight classrooms in accordance with the schools educational requirements.
- A two storey building will ultimately lose the ground floor play area which is currently retained in the undercroft area as well as providing a greater site coverage area.
- Consideration of the curtilage to the heritage items has been considered and found acceptable.
- The additional height does not create any additional negative amenity issues relating to solar and ventilation amenity on the neighbouring sites.
- The design review panel commended the design of the building subject to a slight reduction in the height to align with the heritage hall. The proposal has been amended so that the roof form falls below the roof ridge of the hall.
- The use of the development as a school within the R2 Low Density Residential zone lends itself to difficulty in accommodating the large number of students. There is additional pressure as the site also falls within a heritage conservation area.
- The majority of the bulk will be visible from within the site and not from Haig Avenue.

In regards to whether the standard has been virtually abandoned or destroyed, Council maintains that the standard has not been abandoned or destroyed within the area.

The proposal is consistent with the objectives of the standard and the applicant has satisfactorily established that the proposed variation is appropriate in maintaining and enforcing the development standard in these cases would be unreasonable and unnecessary and would not allow the orderly and economic development of this site. It is considered that

Part	Control	Proposed	Complies
	1 bus space		
3A.3.1 - Car Park Design	C1 – All off-street parking facilities shall be designed in accordance with current Australian Standards AS2890.1 and AS2890.6. The design of off-street commercial vehicle facilities shall be in accordance with AS2890.2.	The car parking spaces have been designed in accordance with the Australian Standards	Yes
	C10 – Off street parking facilities are not permitted within the front setbacks	The proposed car park is located within the front setback however the area is designed within a landscaped setting.	No
	C12 – Off street parking facilities must not dominate the streetscape and are to be located away from the primary frontages of the site.	The car park area does not dominate the streetscape particularly as the length of the site is considerably long.	Yes

Note 3 – Car Parking

The site currently does not have any car parking associated with the school therefore there is no drop off or pick up services available. The proposal seeks to provide a total of twenty-six (26) car parking spaces where this is broken down into 15 car spaces for staff which also includes one disabled space and 11 drop off and pick up spaces, which are unmarked. The car park will be accessed only off Banks Avenue and will be accessible through only a left in/left out arrangement. The proposal also provides a total of six bicycle parking spaces however no bus parking bay which is not provided by the school. This is an existing non-compliance.

A traffic report prepared by Bitzios Consulting was provided with the development application as well as a drop-off/pick-up traffic management plan to demonstrate that the development can achieve safe and efficient operation of the facility. The traffic report states that with the construction of the car park, the drop-off and pick-up and staff traffic of the school will redistribute from Haig Avenue to access the car park on Banks Avenue which will take away car movements from the residential streets. The report also demonstrates that the car parking spaces and proposed aisles have been designed in accordance with AS2890.1. The below figure is a drop-off/pick-up plan for the car parking area.



Figure 15. Drop-off/pick-up area plan (highlighted in light green)

In regards to Control C10 of Part 3A.3.1, the car park is located within the front setback and will be in front of the existing St Michael's Church to the north of the area. The proposed landscape plan that was provided with the amendments to the proposal, demonstrates a number of trees located in front of the car park area as well as some vegetation scattered within the car park to alleviate the harshness of the concrete as well as hinder the car park when viewed from Banks Avenue. Considering alternate locations on site have been looked at, particularly as the only other location where a car park could be situated would be in the middle of the open play area off Wills Crescent. By locating the car park in this area, the site could result in queuing along the intersection of Wills Crescent and Banks Avenue as well as have a greater noise and traffic impact on the adjacent low density dwellings. Additionally, this will remove the majority of open space play area for the students of the school.

The conclusion of the report states that the proposed development is not expected to introduce any significant traffic and transport issues that would preclude approval by Council, subject to treatments recommended in the report. The traffic report was reviewed by Council's Development Engineer who had no objections to the proposal subject to conditions imposed within the consent. The application was also referred to RMS however as of the date of the report, no comments were provided for the development. It is considered that the proposal is satisfactory.

Part 3B – Heritage

The site contains two heritage items within its boundaries and these are identified as I114- Marist Brothers School and Presbytery) and I115 – Former St Michael's Church (now hall). The site is also located within the Daceyville Garden Suburb Heritage Conservation Area. The site is also in the vicinity of (adjacent to and across the road from) heritage items I132 – Daceyville Public School and I81 – Former Community Centre on Wills Crescent.

The subject property is now known as St Michael's Catholic Primary School. The school site is part of a grouping of Catholic Church properties. Former St Michael's Catholic Church (now hall) is heritage item 115. The Marist Brothers School and Presbytery is shown in the LEP as heritage item 115. This site part of the Catholic Church Group which covers the whole block and contains the following buildings; The current Church, St Michael's School, the Presbytery, Our Lady of Sacred Heart Convent, Former Marist Monastery, Former Marist Brothers School (now Catholic Education Office) and Aged Living.

The alterations and additions to Block A which forms part of the item, is considered minimal particularly as most of the modifications relate to parts of the building that are later additions. This has been considered and assessed by Council's Heritage Advisor who provided the following comments:

"Since 1943 the school building has been extended on its north western corner. It originally was symmetrical with the existing north eastern corner. There is also a wing addition to the east, currently known as block A. The courtyard of the school has been filled in with a shade structure.

The proposed arched windows to existing block A will not impact any significant fabric. The proposed demolition of the addition to the North West will restore the symmetry of the building. The proposed works to the interior are acceptable.

The removal of structures along Haig Street will improve the streetscape appearance however this will be offset by the proposed new building in their place."

In regards to the new three storey building, the original design that accompanied the development application was incompatible with the built form of the dwellings located along Haig Avenue as well as the existing heritage hall on the site which the development uses the apex of the gable roof of the hall as a height limit. The proposal was also rejected by Council's Heritage Advisor for the purpose of the length of the roof ridge which was approximately 43 metres long and prevalent from Haig Avenue. Additionally, the height of the building is further extenuated and more visually intrusive due to the solid masonry walls, pitched roofs and fenestration. The materials used for the proposed building included metal sheet roofing, concrete structure, aluminum screens, fibre cement and face brick with a heavy dominance of the aluminum screening. It was requested at the time that a redesign of the new building be carried out.

The applicant provided amended plans of the new building by reducing the bulk of the development from Haig Avenue. These amended plans were further reviewed by Council's Heritage Advisor who provided the following input:

"The under-croft of the building has been retained and the building is still proposed to be three stories. The bulk of the building has been reduced by setting back the top floor and reducing the length of the building along Haig Avenue by setting back the stair wells. The building has been given a more solid appearance that screens the under-croft from Haig Street. This is an important change as it helps better integrate the building into its context. This integration is further achieved by the use of brick which relates to the predominant material and colour palette of the HCA. The façade along Haig Street is broken into three elements with gable forms that reference the church building without mimicking the gothic architectural style. The stepping down of the building height will reduce the overall impact on the HCA."

Therefore as provided by Council's Heritage Advisor, the new building is supportable subject to conditions included in the consent relating to the location of fire hydrants on the corner of Banks Avenue to be relocated as well as further archival records are to be provided prior to the commencement of any works.

Part 3C – Access and Mobility

The applicant has provided an access report prepared by AED Group who have made recommendations which should be carried out with the development. The car park provides one space for disabled access and all levels of the new building is accessible. The building

will require compliance with the DDA and the BCA and this has been appropriately been conditioned.

Part 3G – Stormwater Management

The proposed development including the car parking area will drain to an infiltration system proposed on site and connected by pits. There is also an existing rainwater tank on the site adjoining Block A which will connect the new building. This has been reviewed by Council's Development Engineer who has no issues with the proposed development subject to conditions imposed in the consent.

Part 3J – Aircraft Noise and OLS

The provisions of Australian Standard AS2021-2000 have been considered in the assessment of the development application, as the subject site is located within the 20-25 ANEF contour. Schools in these areas is considered conditional under Table 2.1 of Australian Standard AS2021-2000 unless an acoustic report is submitted to Council, which demonstrates that the proposed school building can achieve the requirements under Table 3.3 of AS2021-2000. Appropriate conditions have been imposed in the consent.

Part 3K – Contamination

Refer to the discussion above in State Environmental Planning Policy (SEPP) No. 55 – Remediation of Land section of the report addressing contamination.

Part 3L – Landscaping and Tree Management

The proposal has been assessed by Council's Landscape Architect as well as Tree Preservation Officer by assessing the existing trees, the proposed landscaped area and the new replacement trees. Considering the size of the site, the proposal provides ample existing landscaped area and outdoor space for the students. New landscaping is proposed along the western boundary of the site directly outside of the location of Block C as well as interspersed between the new car park. No objections have been raised subject to conditions of consent relating to tree preservation bonds, species of trees, removal of trees and tree protection.

Part 3N – Waste Minimisation and Management

A waste minimisation management plan (WMMP) was submitted with the application. Any waste is to be disposed of accordingly in compliance with the plan.

Part 8 – Character Precincts

Part 8.5.1 of the DCP provides the desired future character of the Daceyville area. The site is bound by Wills Crescent to the north, Haig Street to the west and Banks Avenue to the east.

The area is generally characterised as a garden suburb and the housing generally found in the area is predominantly Federation Arts and Crafts.

In regards to the built form, the DCP requires that the form maintains a single storey building height on streets which are dominated by early garden suburb single storey dwellings as well as maintaining the streetscape character dominated by two storey dwellings by siting new development at the rear of sites and not exceeding the original building height. Additionally, the DCP encourages contemporary equivalents of heritage houses which sympathetically interpret the facades, buildings form, scale, rhythm and materials to complement the existing character of the immediate vicinity. It also requires to promote site access and parking facilities that do not dominate the streetscape.

The proposed development seeks a three storey form located on Haig Avenue which comprises a mix of single and two storey built form. The development is located in the section

where the built form is single storey. From Haig Avenue, the development has been designed to emulate a two storey structure with the upper level setback from the street. When viewing the new building from the eastern side of the site, the view is of a three storey structure. It is key to note that the existing church on the site to the east of the proposed location of the new building has a height that is similar to a three storey structure.

The materials that have been chosen for the new building are predominantly masonry in nature which is the consistent building material of the dwellings existing on the street and in the area. The use of vertical elements and colours that resemble the existing heritage hall, assist in providing a consistent streetscape along Haig Avenue.

In regards to the car parking and site access, site access is off Haig Avenue as well as Banks Avenue for pedestrian access and vehicular access from Banks Avenue. As discussed in the report above, the car parking area is located within the front setback however appropriate landscaping is proposed to alleviate the dominance of hardstand concrete from the streetscape.

The application has undergone a number of revisions to get to this point to resemble a development that could fit in with the heritage context of the area. Therefore it is considered that while the development is not wholeheartedly compliant with the DCP due to it being a school and not a residential dwelling, it is considered that the proposed built form and scale is acceptable in this case.

(b) The likely impacts of the development including environmental impacts on both the natural and built environments, social and economic impacts in the locality

The likely impacts of the development in the locality have been considered in this report and are considered to be acceptable. The likely impacts of the development relating to solar amenity, natural ventilation, heritage context, safety, traffic and economic impact have been considered and are found to be acceptable and supported.

(c) The suitability of the site for the development

The site is partially impacted by flooding. To resolve this issue, the applicant have proposed the undercroft area therefore there is no habitable area at ground level that will be impacted by any potential flooding in the future.

The site falls within a 25-30 ANEF Contour. The proposal was accompanied by two acoustic reports which have been reviewed and are acceptable subject to conditions imposed in the consent for the development to comply.

The proposed development is permissible as a result of the Educational Establishment and Child Care Facilities SEPP and satisfies the objectives of the zone. The proposed development for the reasons above and discussed in the report result in a suitable development for the site and the immediate area.

(d) Any submission made in accordance with the Act or Regulations

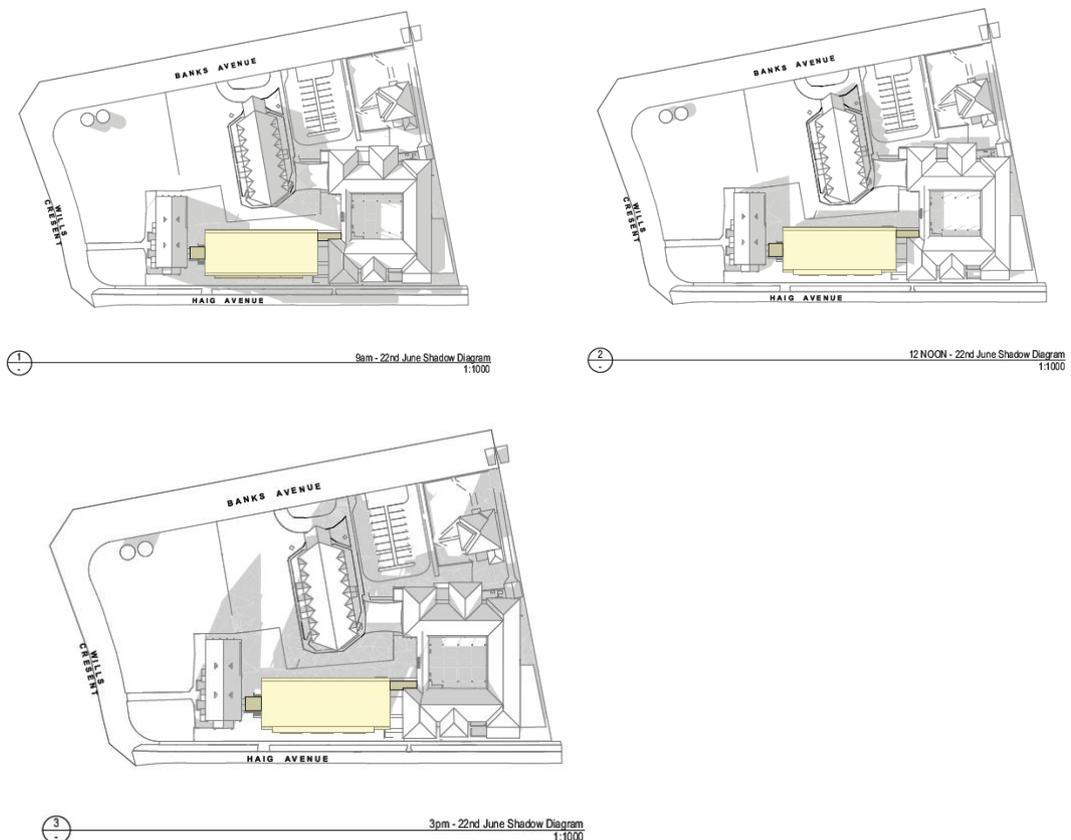
In accordance with Part 2 Notification & Advertising of the BBDCP 2013, the proposed development was notified to surrounding property owners and advertised in the local newspaper from 23 May to 6 June 2018. Two (2) submissions were received objecting the proposal. After amended plans were received by Council, the application was further re-notified for a period of fourteen (14) days between 24 January to 7 February

2019 to the objectors. A further four (4) submissions were received. Concerns that were raised as part of the submissions are summarized below:

- *Overshadowing*

Comment: Concerns are raised that the proposed new building along Haig Avenue will overshadow the adjacent single storey dwellings on the western side of street. Additionally, the loss of morning sunlight contributes to dampness and mould to the neighbouring dwellings.

The below figure relates to the new building along Haig Avenue and the impact on the solar amenity of the adjoining sites. The site has a north-east to south-west orientation with the new building located on the western side of the site. The applicant has carried out a solar assessment on the impact of the three storey form. The figure below demonstrates the impact of the development in mid-winter.



As demonstrated in the plans above, the degree of overshadowing that would fall along the western side of the site would occur in the morning. This would usually occur between 9am to 10am. An assessment of the development prior to 9am is not carried out due to the degree of overshadowing occurring. As demonstrated in the first image at 9am, the proposed three storey building will cast some overshadowing onto Haig Avenue in the morning. It appears that this will occur for a maximum of 1.5 hours as the overshadowing will move onto the southern part of the school later in the day. From 12pm and onwards, the proposal will cast shadow onto the school. There are some large street trees that are located along Haig Avenue which casts an existing shadow onto the adjacent site. As discussed

by the objector, there is already overshadowing on the site and this is due from the natural ventilation rather than any built form. The building will be setback considerably from the boundary with the top level setback greater than 2.5 metres from the edge of the ground and first floors of the building. It is considered that the proposal will result in minimal additional impact onto the adjacent dwellings which are separated by a street. The majority of the shadow would fall onto the street. Additionally, a review of the plans that have been provided at spring equinox demonstrate that the dwellings will not be overshadowed by the proposal. Therefore the development is acceptable in regards to overshadowing.

- *Height non-compliance, bulk and scale – relocation to another part of the school to Banks Avenue*

Comment: Concerns are raised relating to the proposed height of the development and the resultant bulk and scale of the building within an area which is predominantly single storey in nature. Additionally concern is raised on the development not complying with the height controls within the LEP and the built form controls within the DCP. It is noted that the development does not comply with the height control with the proposal exceeding the built form requirement by an additional storey. The applicant has made multiple revisions relating to reducing the bulk and scale of the building to attempt to fit into the site and surrounding site. An assessment against Clause 4.6 of the LEP as well as agreement by Council's Heritage Advisor to state that they are satisfied with the built form in association with the heritage items on the site and within the heritage conservation area have been discussed above.

- *Intensification of the site within an aircraft noise contour*

Comment: Concern is raised that the site will intensify in an area where there is aircraft noise. As discussed in the body of the report, the site is located within a 20-25 ANEF zone. The applicant has submitted two acoustic reports, one for aircraft noise and one for external environment. Both have been reviewed by Council's Environmental Health Officer and appropriate conditions of consent have been imposed.

- *Loss of character and its location within a heritage conservation area*

Comment: Concern is raised that the development does not conform with the heritage character of the area as well as the character of the open space that is currently provided on site. The proposal has been assessed against the heritage controls and commented upon by Council's Heritage Advisor, as provided in the body of the report. The recent revision to the development has attempted to conform to the heritage context by proposing similar materials, appropriate setbacks from the street as well as having the upper floor reduced further back than the bottom levels, has considered the amenity experienced by the students by providing an undercroft while maintaining the character of the area.

- *Natural ventilation and airflow*

Comment: Concern is raised that the new building will block any airflow that is experienced by the adjacent dwelling houses. The site is separated by a street which will continue to allow for appropriate ventilation to the dwelling houses. It is not considered that the new building will significantly hinder this aspect as there is currently a single storey shed in its proposed location.

- *Requirement for a car parking area*

Comment: Concerns are raised as to the provision of a car parking area on the site. Recommendations that the school utilize the surrounding car parks already in the area and the surrounding street network have been made. It is Council's opinion that the proposed development should not rely on the surrounding car parking areas as these would cater for the uses associated with them i.e. sporting fields. Additionally, the location of the new car park of Banks Avenue will take away some of the traffic from Haig Avenue and Wills Crescent which is surrounded by low density residential and place it on Banks Avenue where there is no immediate residential adjoining the site.

- *Safety relating around the car parking area*

Comment: Concerns are raised relating to the safety of students and residents and will create dangerous situation for them. Appropriate conditions have been imposed in the consent to ensure safety within the grounds. The proposal provides separate pedestrian and vehicle entry. Additionally, as stated above, the car park is away from residents therefore is a better option in providing a safe environment.

- *Loss of open playground area*

Comment: The proposal will continue to provide open playground area along the northern side of the site. The undercroft area will continue to be a play area which is partially enclosed to allow the students to be protected by weather conditions.

- *Limitations on the number of students on the site*

Comment: Concerns are raised to the number of students permitted on the site as well as the amount of future development that will constrain the site and that an alternate location be provided all together. Council cannot place a restriction in the number of students that are proposed by the school however Council does have density controls which restrict the amount of development on one site. Council cannot comment on whether the applicant is seeking secondary sites as this falls outside of the scope of assessment.

- *Tree Removal*

Comment: Concern is raised relating to the trees being removed on the site along Haig Avenue to accommodate the new building. The three trees are considered small in nature and are not significant. This has been reviewed by Council's Tree Preservation Officer who has no issues with the proposal.

- *Impact on the Botany Aquifer*

Comment: Concern is raised on the impacts of the development onto the Botany Aquifer and whether the construction of the development will create sink holes and require underpinning. Conditions of consent have been imposed relating to vibration, noise and excavation. Additionally, the proposal will be predominantly be built on slab therefore there will be no significant disruption of the ground.

- *Traffic and Safety relating to car park*

Comment: Concerns are raised in regards to the safety of parishoners of the church, elderly and the young and the impact of the drop-off/pick-up area. The site currently has its main entry point to the school at the rear with the secondary entry point off Banks Avenue which is currently proposed to be used. The proposal will seek to share both entries to the site to spread the impact of traffic from Haig Avenue. It is not considered appropriate to utilize Wills Crescent as a secondary point of entrance or drop-off/pick-up zone as the street is currently as one-way street and all traffic will have to feed down through Haig Avenue. The recommendations that have been brought up by the objectors relating to no-stopping zones, one-way street and traffic along Haig Avenue, restricting any access off Banks Avenue is generally dealt with in a separate matter by Councils' Traffic Committee. In regards to the new car park and safety, appropriate conditions of consent have been imposed to allow for the safety of the students, residents, parishoners and staff. The proposal will not result in the loss of ten car spaces, as stated in the objection, but more likely a maximum of 4 spaces to allow for the vehicular crossings and driveways into the site.

The traffic report that has been provided to Council has outlined issues relating to peak hour traffic movements as well as has stated that entry to the area will be through a left in/left out vehicle movements. The impact will be at its worse during school peak hours which are generally between 8am to 9.30am and 2.30pm to 4pm on weekdays. Additionally concerns were raised that the development would impede on funeral and wedding traffic. It is noted that the site contains a separate vehicle entry for the church and for any wedding or funeral cars so the proposal should not disrupt this outcome. The proposal has been conditioned to provide traffic management plan during the construction period as well for the ongoing use of the school.

(e) The public interest

It is considered that the proposed development is in the public interest.

OTHER MATTERS

The Development Application was referred to Council's internal and external departments for comment. Appropriate conditions have been recommended to address the relevant issues raised. The following table is a brief summary of the comments raised by each referral department.

Referral Agency	Response Date	Comments
External Referrals		
SACL	5 June 2018	The conditions have been included in the Schedule of Consent Conditions.
Sydney Water	5 June 2018	The conditions have been included in the Schedule of Consent Conditions.
NSW Police	10 July 2018	No objections. Advisory Conditions have been provided.
RMS	-	Conditions have not been provided as of yet.
Internal Referrals		
Landscape Architect	21 January 2019	Conditions have been incorporated into the Schedule of Consent Conditions.

Referral Agency	Response Date	Comments
Development Engineer	16 May 2018	Conditions have been incorporated into the Schedule of Consent Conditions.
Environmental Scientist	27 August 2018	Conditions have been incorporated into the Schedule of Consent Conditions.
Heritage Advisor	15 October 2018	Conditions have been incorporated into the Schedule of Consent Conditions.
Building Surveyor	12 July 2018	Conditions have been incorporated into the Schedule of Consent Conditions.
Environmental Health Officer	13 March 2019	Conditions have been incorporated into the Schedule of Consent Conditions.

SECTION 7.12 CONTRIBUTIONS

It is considered that the proposed development will increase the demand for public amenities within the area, and in accordance with Council's Section 7.12 Contribution Plan, the development generates a contribution rate of \$68,299.00, to be paid prior to the issue of the first construction certificate.

CONCLUSION

Development Application No. DA-2017/1073 was received on 3 May 2018 for alterations and additions to the existing St Michael's Catholic Primary School and construction of a three (3) storey educational facility fronting Haig Avenue to accommodate an additional 202 students including car parking fronting Banks Avenue at 31 Banks Avenue, Daceyville.

The non-compliance in the building height has been considered as part of the Clause 4.6 variation submitted by the applicant. Council is of the opinion that the Clause 4.6 variation is well founded in this instance and should be supported. The location of the new building and car parking area is considered appropriate particularly in relation to vehicle movements and the existing road network. In regards to the heritage nature of the site and HCA, the development has been designed to integrate with the height of the existing heritage hall as well as incorporate similar materials that are found within the area.

The application was the subject of a total of six objections, with one of letters having 12 signatures as a result of two rounds of notification with concerns generally relating to car parking and traffic, bulk and scale, height, heritage, overshadowing and character. These submissions have been addressed in the report above.

The proposal has been assessed in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*. The proposal is permissible within the R2 – Low Density Residential zone, as assessed under the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 and is considered to result in a development which is suitable in the context of the site. Therefore, the proposed development is recommended for approval, subject to the conditions of consent.

Attached Schedule

SCHEDULE OF CONSENT CONDITIONS

GENERAL CONDITIONS

- 1 The development is to be carried in accordance with the following plans and endorsed with Council's stamp, except where amended by other conditions of this consent. Reference documentation is also listed.

Plans	Author	Dated / Received by Council
DA-00 Rev B- Cover Sheet and Location Plan	JDH Architects	Dated 6 November 2018; Received 13 November 2018
DA-01 Rev D- Existing/Demolition Site Plan		Dated 6 November 2018; Received 13 November 2018
DA-02 Rev D- Proposed Site and Analysis Plan		Dated 6 November 2018; Received 13 November 2018
DA-03 Rev E- Existing Ground Demolition Plan		Dated 6 November 2018; Received 13 November 2018
DA-04 Rev E- Proposed Ground Floor Plan		Dated 6 November 2018; Received 13 November 2018
DA-05 Rev E- Proposed First Floor Plan		Dated 6 November 2018; Received 13 November 2018
DA-06 Rev E -Proposed Second Floor Plan and Roof		Dated 6 November 2018; Received 13 November 2018
DA-07 Rev C- Proposed Elevations – Sheet 1		Dated 6 November 2018; Received 13 November 2018
DA-08 Rev C- Proposed Elevations – Sheet 2		Dated 6 November 2018; Received 13 November 2018
DA-09 Rev C- Proposed Sections		Dated 6 November 2018; Received 13 November 2018
DA-11 Rev C- Finishes		Dated 6 November 2018; Received 13 November 2018
DA-15 Rev D- Construction Management Canteen Plan		Dated 7 November 2018; Received 13 November 2018
Sheet 1, Rev B- B99 Manoeuvrability	Bitzios Consulting	Dated 26 March 2018; Received 13 November 2018
Sheet 2, Rev B- Drop-off/pick-up storage		Dated 26 March 2018; Received 13 November 2018
2017_13- DA01- Rev C- Landscape Plan	Gallagher Studio	Dated 9 November 2018; Received 13 November 2018
2017_13- DA02- Rev C0 Detail Plan		Dated 9 November 2018; Received 13 November 2018

Reference Document(s)	Author	Dated / Received by Council
Addendum Report to Arboricultural Impact Assessment	Graham Brooks Arboricultural Tree Services Pty Ltd	Dated 6 November 2018; Received 13 November 2018
Arboricultural Impact Assessment	Graham Brooks Arboricultural Tree Services Pty Ltd	Dated 12 April 2018; Received 13 November 2018
Access Report	AED Group	Dated 7 November 2018; Received 13 November 2018
Environmental Noise Assessment- 6380.1.1R Rev D	Day Design Pty Ltd	Dated 5 February 2019; Received 7 February 2019
Aircraft Noise Intrusion- 6380.1.2R Rev C	Day Design Pty Ltd	Dated 25 January 2019; Received 7 February 2019
BCA Assessment Report	Blackett, Maguire and Goldsmith	Dated November 2018; Received 13 November 2018
Amended written request to vary the height development standard- BBLEP 2013	Robinson Urban Planning	Dated 12 November 2018; Received 13 November 2018
Flood Management Plan for St Michaels Primary School Daceyville	JDH Architects	Dated 27 March 2018; Received 13 November 2018
Statement of Heritage Impact	Heritage 21	Dated November 2018; Received 13 November 2018
DA Estimate 1b1	Wilde and Woolward	Dated 21 February 2018; Received 13 November 2018
Energy Efficiency Evaluation- Section JV3 of NCC/BCA 2016	Partners Energy	Dated 5 November 2018; Received 13 November 2018
Amended Statement of Environmental Effects	Robinson Urban Planning	Dated 12 November 2018; Received 13 November 2018
Civil Services Plans	Jones Nicholson Consulting Engineers	Dated November 2018; Received 13 November 2018
Traffic Impact Assessment	Bitzios Consulting	Dated 6 November 2018; Received 13 November 2018
Waste Management Plan	-	Received 13 November 2018
Survey Plans	Usher and Company	Dated 12 July 2016; Received 13 November 2018

No construction works (including excavation) shall be undertaken prior to the issue to the Construction Certificate.

- 2 This Consent relates to land in Lot 1 in DP 186759 and Lot 1 in DP 666538 and, as such, building works must not encroach on to adjoining lands or the adjoining public place.
- 3 The consent given does not imply that works can commence until such time that:
 - a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:

- (i) The consent authority; or,
 - (ii) An accredited certifier; and,
 - b) The person having the benefit of the development consent:
 - (i) Has appointed a principal certifying authority; and
 - (ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
 - (iii) The person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.
- 4 All building work must be carried out in accordance with the provisions of the Building Code of Australia.

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

Where relevant, the following external authority conditions apply:

The following conditions are imposed by **Sydney Water**:

- 5 A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water prior to development commencement. It is recommended that the Council includes this term as a Condition of the DA approval.

The proponent is advised to make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs.

Applications must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing> Developing> Land development or telephone 13 20 92.

- 6 The approved plans must be submitted to the Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

The Sydney Water Tap in™ online self-service replaces our Quick Check Agents as of 30 November 2015.

The Tap in™ service provides 24/7 access to a range of services, including:

- a) building plan approvals
- b) connection and disconnection approvals
- c) diagrams
- d) trade waste approvals
- e) pressure information

- f) water meter installations
- g) pressure boosting and pump approvals
- h) changes to an existing service or asset, e.g. relocating or moving an asset.

Sydney Water's Tap in™ online service is available at:
<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

The following conditions are imposed by **Sydney Airport Corporation Limited (SACL)**:

- 7 This location lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 15.24 metres above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority.
- 8 The application sought approval for the PROPERTY DEVELOPMENT to a height of 33.0 metres Australian Height Datum (AHD).
- 9 In the capacity as Airfield Design Manager and an authorised person of the Civil Aviation Safety Authority (CASA) under Instrument Number: CASA 229/11, in this instance, the Airfield Manager has no objection to the erection of this development to a maximum height of 33.0 metres AHD.
- 10 The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc.
- 11 Should you wish to exceed this height a new application must be submitted.
- 12 Should the height of any temporary structure and/or equipment be greater than 15.24 metres AEGH, a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.
- 13 Construction cranes may be required to operate at a height significantly higher than that of the proposed development and consequently, may not be approved under the Airports (Protection of Airspace) Regulations.
- 14 Sydney Airport advises that approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct.
- 15 "Prescribed airspace" includes "the airspace above any part of either an Obstacle Limitation Surface (OLS) or Procedures for Air Navigation Services – Aircraft Operations (PANS-OPS) surface for the airport (Regulation 6(1)).
- 16 The height of the prescribed airspace at this location is 51 metres above AHD.

Planning for Aircraft Noise and Public Safety Zones

- 17 Current planning provisions (s.117 Direction 3.5 NSW Environmental Planning and Assessment Act 1979) for the assessment of aircraft noise for certain land uses are based on the Australian Noise Exposure Forecast (ANEF). The current ANEF for which Council may use as the land use planning tool for Sydney Airport was endorsed by Airservices in December 2012 (Sydney Airport 2033 ANEF).

- 18 Whilst there are currently no national aviation standards relating to defining public safety areas beyond the airport boundary, it is recommended that proposed land uses which have high population densities should be avoided.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE COMMENCEMENT OF ANY WORKS

- 19 St Michael's Catholic Primary School shall be archivally recorded according to the documents published by the NSW Office of Environment and Heritage: *Heritage Guidelines, How to prepare archival recordings* and *Photographic recording of heritage items using film or digital capture*. The archival record is to be made prior to any works taking place. The record must include all of the grounds where changes are proposed to occur and any interiors where changes are proposed as well as overview photographs of the whole school. The record must be approved by Council prior to commencement.
- 20 The proposed development shall comply with the following:
- (a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - (i) Stating that unauthorised entry to the work site is prohibited;
 - (ii) Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - (iii) The Development Approval number; and
 - (iv) The name of the Principal Certifying Authority including an afterhours contact telephone number.
 - (b) Any such sign is to be removed when the work has been completed.
- 21 If the land to which the application relates is served by a common sewerage system that is also used by others, then measures must be placed in effect and prior to the commencement of work to ensure the operation of the sewerage system is without disruption to other joint users.
- 22 Prior to the commencement of any demolition, excavation or remediation works, the applicant must inform Council, in writing, of:
- (a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
 - (b) The name and permit number of the owner-builder who intends to do the work;
 - (c) The Council also must be informed if: -
 - (i) A contract is entered into for the work to be done by a different licensee; or
 - (ii) Arrangements for the doing of the work are otherwise changed.
- 23 Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on

Council's property/road reserve under Road Act 1993 and Local Government Act 1993: - (It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)

- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve,
- b) Permit to construction works, place and/or storage building materials on footpaths, nature strips,
- c) Permit to install temporary ground anchors in public land,
- d) Permit to discharge ground water to Council's stormwater drainage system,
- e) Permit for roads and footways occupancy (long term/ short term),
- f) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve,
- g) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services,
- h) Permit to place skip/waste bin on footpath and/or nature strip, and
- i) Permit to use any part of Council's road reserve or other Council lands.

- 24 Soil and sedimentation controls are to be put in place prior to commencement of any work on site. The controls are to be maintained in effective working order during construction.

The controls are to be designed and installed in accordance with the Soil and Water Management for Urban Development Guidelines produced by the Southern Sydney Regional Organisation of Council. Copies of the guidelines are available from Council.

- 25 Prior to the commencement of demolition work a licensed demolisher who is registered with WorkCover NSW must prepared a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy shall be sent to Council (if it is not the PCA). A copy of the Statement shall also be submitted to WorkCover NSW.

The statement must be in compliance with AS2601:1991 – 'Demolition of Structures', the requirements of WorkCover NSW and conditions of the Development Approval, and shall include provisions for:

- a) Enclosing and making the site safe, any temporary protective structures must comply with the "Guidelines for Temporary Protective Structures (April 2001)";
- b) Induction training for on-site personnel;
- c) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);
- d) Dust control – Dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with

chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site;

- e) Disconnection of Gas and Electrical Supply;
 - f) Fire Fighting – Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed;
 - g) Access and Egress – No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;
 - h) Waterproofing of any exposed surfaces of adjoining buildings;
 - i) Control of water pollution and leachate and cleaning of vehicles tyres – Proposals shall be in accordance with the “Protection of the Environmental Operations Act 1997”;
 - j) Working hours, in accordance with this Development Consent;
 - k) Confinement of demolished materials in transit;
 - l) Proposed truck routes, in accordance with this Development Consent;
 - m) Location and method of waste disposal and recycling in accordance with the “Waste Minimisation and Management Act 1995”.
 - n) Sewer – common sewerage system ad08.
- 26 A sufficient area shall be provided onsite to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or re-use on site. Details of this area shall be provided in the Soil and Water Management Plan (SWMP). This plan shall incorporate and reference the construction environmental management plan and address site limitations.
- 27 Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
- a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
 - b) Each toilet provided:
 - (i) must be standard flushing toilet; and,
 - (ii) must be connected:
 - to a public sewer; or
 - if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
 - if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
 - c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.

- 28 This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
- 29 Prior to the commencement of any works, the site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Principal Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.
- 30 A Soil and Water Management Plan shall be prepared in accordance with Soil and Water Management for Urban Development Guidelines produced by the Southern Sydney Region Organisation of Councils. A copy of the plan must be submitted to Council. The Plan must include details of the proposed erosion and sediment controls to be installed on the building site. A copy of the Soil and Water Management Plan must be kept on-site at all times and made available on request. Sediment control devices shall not be located beneath the driplines of trees, which are to be retained.
- 31 Soil and sedimentation controls are to be put in place prior to commencement of any work on site. The controls are to be maintained in effective working order during construction. The controls are to be designed and installed in accordance with the Soil and Water Management for Urban Development Guidelines produced by the Southern Sydney Regional Organisation of Council. Copies of the guidelines are available from Council.
- 32 Prior to the Commencement of Demolition/Issue of Construction Certificate, the applicant is to submit payment for a Tree Preservation Bond of \$4,000.00 to ensure protection of the street trees from damage during construction. The duration of the Bond shall be limited to a period of twelve (12) months after issue of the Occupation Certificate. At the completion of the twelve (12) month period the Tree Preservation Bond shall be refunded pending a satisfactory inspection of the trees by Council and/or a qualified Arborist. If a tree was found to be in decline, damaged (including roots), dead, excessively pruned or removed without Council permission or, if tree protection measures were not satisfied at any time, then all or part thereof of the bond shall be forfeited.
- 33 Prior to the commencement of any works, the following is required:
- a) All other trees referenced in the Conclusion and Recommendations within the Arboricultural Report and Addendum to the report, prepared by Graham Brooks Arboricultural Tree Services Pty Ltd are to be protected prior to demolition and tree removal works.
 - b) These tree/s are to be placed within a Tree Protection Zone (TPZ) with protective fencing and maintained and retained until the completion of all building works.
 - c) The Protective fencing where required shall delineate the Tree Protection Zone (TPZ) and should be situated as determined by the project arborist in accordance with AS 4970 Protection of trees on development sites, Section 4, 4.3.
 - d) Fencing should be erected before any machinery or materials are brought onto the site and before the commencement of works including demolition. Once erected, protective fencing must not be removed or altered without approval by the project arborist. The TPZ must be secured to restrict access.

- e) AS 4687 Temporary fencing and hoardings specifies applicable fencing requirements. Shade cloth or similar should be attached to reduce the transport of dust, other particulate matter and liquids into the protected area. Fence posts and supports should have a diameter greater than 20 mm and be located clear of roots. Existing perimeter fencing and other structures may be suitable as part of the protective fencing” or similar.
- f) Tree Protection signage is to be attached to each TPZ and displayed from within the development site in accordance with AS 4970 2009 Protection of trees on development sites
- g) The area of the Tree Protection Zone shall be mulched to a depth of 100 mm with organic material being 75% leaf litter and 25% wood, and this being composted material preferably from the same genus and species of tree as that to where the mulch is to be applied, i.e. species-specific mulch. The depth of mulch and type as indicated, to be maintained for the duration of the project. Where deep excavation will expose the soil profile to drying out the root plate is to be protected by pegging jute matting across the ground surface 2 m back from the edge of the profile and 2 m down the face of the profile and is to be in one continuous sheet or layers up to 5 mm thick and overlapped 300 mm and pegged. Pegs are to be a minimum length of 200 mm and spaced at 500 mm increments in a grid pattern. Once installed mulch is to be placed on top of the jute matting previously described.
- h) There is to be no storage of materials, rubbish, soil, equipment, structures or goods of any type to be kept or placed within 5 metres from the trunk or within the dripline of any tree for the duration of the development. This will ensure protection of the tree/s to be retained on or adjacent to site.
- i) Project/Site arborist is to inspect/assess all retained specimens prior to demolition to inspect tree protection measures to monitor that they have been carried out as per the approved D/A conditions for the site. Documentation is to be submitted to the consenting authority after each inspection.
- j) Where Tree Protection Zone fences are to be moved or relocated to gain access, this must be undertaken in consultation with the Consultant Arboriculturist for the project to ensure that tree protection is maintained. If the fences are relocated areas are to be mulched to a depth of 100mm to reduce compaction to the root system of the retained specimens.
- k) To minimise damage to retained crowns, all Tree Protection Zones are to be adhered to. This must be undertaken in consultation with the Consultant Arboriculturist for the project to ensure that tree protection is maintained. Minor pruning may be required if damage occurs, work to undertaken.
- l) Project/Site arborist is to inspect/assess all retained specimens prior to Demolition and Tree Removal, Post Demolition, Prior to Construction during Construction and on completion in relation to trees protected and the protection measures have been carried out as per the approved D/A conditions for the site. Documentation is to be submitted to the consenting authority after each inspection.
- m) Any work to be undertaken within Tree Protection Zones is to be undertaken in accordance to AS 4970. 2009 protection of trees on development sites

- n) At completion of construction work the Site/Project Arborist should carry out an assessment of all trees retained &/or affected by works. This assessment is to document any required on-going remedial care needed to ensure viable retention of trees affected. Documentation is to be submitted to the consenting authority.
- 34 Consent is granted for the removal Trees 1 to 4 located within the Public Domain and the removal of Trees 5-11, 17, 21-23 and 21-33 from within the site. To compensate Council for the removal of the four trees in the Public Domain, the applicant is to supply Council with eight (8) *Corymbia maculata* (Spotted Gums) of 75 litre root ball/pot size specimens at the time of the proposed on site landscaping. These specimens are to be planted in the adjacent parkland known as Rowland Park at locations as determined by Council. The applicant is to notify Council when the replacement trees are ready to be picked up.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

- 35 The applicant must prior to the issue of any Construction Certificate, pay the following fees:
- | | | |
|-----|----------------------------|-------------------------|
| (a) | Development Control | \$3,081.00 |
| (b) | Footpath Crossing Deposit | \$50,000.00 (See below) |
| (c) | Section 7.12 Contributions | \$68,299.00 (See below) |
- 36 Prior to the issue of the Construction Certificate, the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.
- 37 Prior to the issue of any Construction Certificate, the applicant shall lodge a Footpath Crossing Deposit of **\$50,000.00** (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.
- 38 Bayside Council being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with Council's Section 7.12 Contributions Plans, a contribution of **\$68,299.00** is payable prior to the issue of the Construction Certificate.
- 39 Prior to the issue of the Construction Certificate, the proposal is to demonstrate that the development will comply with the relevant Educational Facilities Standards and Guidelines (EFSG) with the following publications:
- | | |
|----|--|
| a) | School Facilities Standards – Landscape Standard – Version 22 (March 2002) |
| b) | Schools Facilities Standards – Design Standard (Version 1/09/2006) |

c) School Facilities Standards – Specification Standard (Version 01/11/2008)

- 40 Prior to the issue of the Construction Certificate, a dilapidation survey shall be undertaken of all properties and/or Council infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. The insurance cover shall be a minimum of \$10 million.
- 41 A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s web site at www.sydneywater.com.au then the “e-developer” icon or telephone 13 20 92.
- i) Following application a “Notice of Requirements” will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer extensions can be timed consuming and may impact on other services and building, driveway or landscape design. The Section 73 Notice of Requirements must be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate.
- 42 Any part of the proposed building located in the vicinity of the existing pipeline shall be constructed on a pier and beam type foundation, piers shall be located outside the boundary of the drainage easement and to extend to a depth no less than 300mm below the invert of the pipeline.
- 43 An detail assessment report relating the compliance of the requirements of the Building Code of Australia being submitted with the application for the issue of the Construction Certificate. This is a recommendation of the previous BCA assessment report issued by Blakett Maguire + Goldsmith Pty Ltd on March 2018.
- 44 Plans and cross sections showing the compliance of the recommendations of Part J BCA assessment report issued by Michael May of Partners Energy on 19 March 2018 to be submitted with the application for the issue of the Construction Certificate.
- 45 A certificate from a practising Structural Engineer shall be submitted prior to the issue of the construction certificate confirming that the existing building elements are structurally adequate to support all proposed additional loads.
- a) If Council is appointed as the Principal Certifying Authority (PCA) then structural engineer's details shall be submitted prior to the issue of the Construction Certificate; such structural drawings shall be certified by the Structural Engineer that the design complies with the relevant S.A.A. Codes for the following:
- b) the footings of the proposed structure;
- c) the footings of the slab-on-ground (having due regard to the possible differential settlement of the cut and fill areas);
- d) all reinforced concrete floor slabs;

- e) all reinforced concrete stairs;
 - f) the piers to natural ground or rock, detailing the size and position of the piers;
 - g) the proposed retaining wall;
 - h) the work required to stabilise the excavation;
 - i) the work required to stabilise the footpath area;
 - j) the design of each roof truss type showing the layout of each truss on a marking plan and the method of connecting each truss to its supporting members of the method of bracing;
 - k) all structural steel work;
 - l) first floor joists;
 - m) fire rated ceilings/fire protective ceilings.
- 46 Timber framing members shall comply with the relevant provisions of the National Timber Framing Code AS 1684-1999. Details of the roof truss, truss layout and proposed method of bracing shall be submitted to the Principal Certifying Authority prior to the first inspection.
- 47 A list of the proposed and existing essential services to be installed in the building shall be submitted to Council in accordance with the relevant requirements.
- 48 Prior to the issue of any Construction Certificate, the applicant shall contact “Dial Before You Dig” to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from “Dial Before You Dig” shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction. Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant’s expense.
- 49 The off-street parking areas associated with the subject development shall be designed strictly in accordance with AS2890.1:2004.
- 50 The building shall be constructed in accordance with *AS2021-2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction*, the details of which must be prepared by a practicing professional acoustical consultant. The report shall be submitted to the certifying authority prior to the issue of the relevant Construction Certificate and the building plans endorsed with the required acoustical measures.
- 51 Prior to the issue of the relevant construction certificate, to ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:
- a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services,
 - b) Negotiate with the utility authorities (e.g. AusGrid, Sydney Water, Telecommunications Carriers and Council in connection with:

- i. The additional load on the system, and
- ii. The relocation and/or adjustment of the services affected by the construction.

52 A Construction Management Program shall be submitted to, and approved by the Private Certifying Authority prior to the issue of any Construction Certificate. The program shall detail:

- a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or public reserves being allowed,
- b) The proposed phases of construction works on the site and the expected duration of each construction phase,
- c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken,
- d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process,
- e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site,
- f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period,
- g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site,
- h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent,
- i) Proposed protection for Council and adjoining properties, and
- j) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.
- k) The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.

53 Prior to the issue of the relevant Construction Certificate, a Construction Traffic Management Plan (TMP) prepared by a suitably qualified person shall be submitted

to and approved by the Certifying Authority. The Plan shall address, but not be limited to, the following matters:

- a) ingress and egress of vehicles to the site;
- b) loading and unloading, including construction zones;
- c) predicted traffic volumes, types and routes; and
- d) pedestrian and traffic management methods.

Copies of the CMP and TMP shall be submitted to Council.

54 The fire hydrant tanks proposed to be located on the corner of Banks Avenue and Wills crescent are to be located underground, below the existing ground level.

55

a) The approved Landscape Concept Plans prepared by Gallagher Studio, Revision C, dated 9th November 2018 shall comprise detailed landscape documentation to be submitted to and approved by Principal Certifier Authority prior to Issue of Construction Certificate. The landscape documentation is to be prepared by a suitably qualified Landscape Architect, in accordance with Council Landscape Technical Specifications and include the following amendments:

- (i) Include one canopy tree in area labelled in approved landscape concept plan as area 10, adjacent to pedestrian walkpath linking St Michaels Catholica Church and Block A School. Tree shall be one (1) Eucalyptus botryoides (Southern Mahogany) or similar native tree to be able to reach a minimum mature height of 10 meters in local conditions. New tree shall be supplied and planted at a minimum 75 Litres pot size, installed with four 2100mm long hardwood posts tree guard.
- (ii) New proposed trees in area 18, three (3) Eucalyptus racemosa (Scribbly Gum) as indicated in approved landscape plans shall be supplied and planted at a minimum 45 Litres pot size container, installed with four 2100mm long hardwood posts tree guard.
- (iii) Five (5) Banksia serrata (Old man Banksia) proposed in area 7, central parking area shall be replaced with five (5) Cupaniopsis anacardioides (Tuckeroo) to be supplied and planted at a minimum 75 Litres pot size.

b) A Public Domain Frontage Works application shall be submitted separately to Council, with Civil and Landscape works plans prior issue of Construction Certificate. Any tree planting and landscape works in public domain shall be carried out as per Council specifications that will be provided in Frontage Works Brief.

56 A copy of Permission to Discharge Trade Waste Water shall be obtained from Sydney Water prior to the discharge of trade waste water to the sewer system. A copy shall be provided to Principal Certifying Authority (PCA) prior to issuing the Construction Certificate. A copy shall also be provided to Council if Council is not the PCA.

- 57 All walls within the kitchen, food preparation, storage and display areas shall be of solid construction. Walls in food preparation areas shall be finished with one or a combination of glazed tiles, stainless steel, aluminium sheeting, laminated thermosetting plastic sheeting, polyvinyl sheeting with welded seams or similar impervious material which is adhered directly to the wall. The finishing materials of the wall surfaces shall provide a smooth even surface free from buckles, ledges, fixing screws, picture rails, open joint spaces, cracks or crevices.
- 58 The intersection of walls and plinths with floors in the kitchen, food preparation, storage and display areas shall be coved with a minimal 25mm radius.
- 59 The surface finish of the ceiling shall not be perforated and shall be finished in an impervious material which is free from open joints, cracks, crevices, (in accordance with AS 4674-2004, acoustic and decorative panels are not to be used in wet areas, food preparation areas, bin storage areas or other areas where open food is displayed or served). The ceiling over the food preparation, storage and display areas shall be painted with a washable paint of a light colour. The intersection of walls and the ceiling shall be tight jointed, sealed and dust-proof.
- 60 All service pipes conduits and electrical wiring shall be either:
- a) Concealed in floors, walls, ceilings or concrete plinths, or
 - b) Fixed with brackets so as to provide at least 25mm clearance between the pipe and the adjacent vertical surface and 100mm between the pipe or conduit and the adjacent horizontal surface.
- 61 All openings in the walls, floors and ceilings through which service pipes and electrical conduits pass through shall be designed and constructed so as to prevent the access of vermin.
- 62 All surfaces of counters, bars, food display units, window display, self –service displays and bain-maries shall be smooth, durable, impervious and free from cracks, crevices and cavities. The underside shall have an impervious finish. Window displays for wet foods shall be coved at all intersections and installed in accordance with AS/NZS 3500.2.- 2003.
- 63 Cavities, false bottoms and similar hollow spaces capable of providing access and harbourage for vermin are not permitted to be formed in the construction of the food preparation or storage areas, or in the installation of fixtures, fittings and equipment
- 64 Facilities for the storage of clothing and belongings shall be a change room, lockers or cupboards in a change room or enclosed cupboards dedicated for the storage of personal belongings and located outside of the food preparation, food processing, food storage and utensil washing areas.
- 65 Cleaning chemicals, cleaning equipment, pest control chemicals and equipment shall be located in a room designated for that use and enclosed in cupboards dedicated for that use which is located away from food preparation storage and display areas and not able to contaminate personal effects and clothing.
- 66 Where premises are enclosed, windows shall be protected against the entry of pests by being tight-fitting and permanently fixed closed, or fitted with mesh screens which can be removed for cleaning or protected by a permanent mesh screen which can be cleaned in place. Entry/exits, serving hatches and similar openings to food premises

shall be protected against the entry of pests by tight-fitting solid self closing doors, roller shutters or other means of closing off the entrance or tight fitting self-closing mesh screen doors.

- 67 All building materials shall be flood resistant, or flood compatible to a height of 500mm above the 1% AEP flood, or flow level. All internal electrical switches, power points or similar utilities liable to flood damage shall be set at a minimum of 500mm above the 1% AEP flood, or flow level. Details shall be provided and approved prior to the issue of a construction certificate.
- 68 A suitable qualified engineer is to certify that the structure can withstand the forces of floodwater, scour, debris and buoyancy in a 1% AEP flood event and a PMF event.
- 69 Any portion of the proposed structure within 3m of the proposed detention tank or absorption trench shall be constructed on a pier and beam foundation with piers extending 300mm below the bottom of the tank or trench base.
- 70 Stormwater management requirements for the development site, including the final discharge / end connection point, must comply with Botany DCP Part 10 – Stormwater Management Technical guidelines.
- 71 The driveway over the absorption trench shall be either constructed on a pier and beam foundation with piers extending no less than 300mm below the bottom of the trench base or constructed as a structural slab so that no load is transferred to the plastic trench. This requirement shall be reflected on the Construction Certificate plans and supporting documentation.
- 72 A geotechnical engineer shall determine the soil absorption rate and satisfy the other requirements of Botany DCP Part 10 – Stormwater Management Technical guidelines relating to the water table, impact on footings, etc prior to design of the drainage system. A copy of the report shall be forwarded to Council prior to the issue of the Construction Certificate.
- 73 Prior to the issue of the Construction Certificate, detailed drainage design plans for the management of stormwater are to be submitted to Principal Certifying Authority for assessment and approval. Design certification, in the form specified in Botany DCP Part 10 – Stormwater Management Technical Guidelines, and drainage design calculations are to be submitted with the plans. Botany DCP Part 10 – Stormwater Management Technical Guidelines sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the development site, including the final discharge/end connection point, must comply with Botany DCP Part 10 – Stormwater Management Technical Guidelines. All drainage items including discharge control pits are to be located totally within the development site and not located within Councils footpath or roadway areas.

DURING WORKS

- 74 All contractors shall comply with the following during all stages of demolition and construction:
 - a) A Waste Container on Public Road Reserve Permit must be obtained prior to the placement of any waste container or skip bin in the road reserve (i.e. road or footpath or nature strip). Where a waste container or skip bin is placed in the road reserve without first obtaining a permit, the Council's fees and

penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.

- b) A Road Opening Permit must be obtained prior to any excavation in the road reserve (i.e. road or footpath or nature strip). Where excavation is carried out on the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
 - c) A Hoarding Permit must be obtained prior to the erection of any hoarding (Class A or Class B) in the road reserve (i.e. road or footpath or nature strip). Where a hoarding is erected in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
 - d) A Crane Permit must be obtained from Council prior to the operation of any activity involving the swinging or hoisting of goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway. Permits can be obtained from Council's Customer Service Centre.
 - e) A Permit to Dewater or Pump Out a site must be obtained prior to the discharge of pumped water into the road reserve, which includes Council stormwater pits and the kerb and gutter. Permits can be obtained from Council's Customer Service Centre.
- 75 Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted. In addition stockpiles of topsoil, sand, aggregate, soil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface.
- 76 The vehicular entry/exits to the site must be protected from erosion and laid with a surface material which will not wash into the street drainage system or watercourse.
- 77 Ground water shall only be pumped or drained to Council's stormwater system if the water is clean and unpolluted. The standard used to determine the acceptability of the quality of the water is the 'Australian and New Zealand Environment and Conservation Council - Australian Water Quality Guidelines for Fresh and Marine Waters 1992'. Note: Prior treatment and/or filtration of the water may be necessary to achieve acceptable quality, including a non-filterable residue not exceeding 50 milligrams/litre or small quantities may be removed by the services of a Licenced Liquid Waste Transporter. It is an offence under the provisions of the Protection of the Environment Operations Act 1997 to pollute the stormwater system.
- 78 Stormwater from roof areas shall be linked via a temporary downpipe to an approved stormwater disposal system immediately after completion of the roof area.
- 79 Demolition operations shall not be conducted on the roadway or public footway or any other locations, which could lead to the discharge of materials into the stormwater drainage system.

- 80 Building and demolition operations such as brickcutting, washing tools or paint brushes, and mixing mortar shall not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- 81 All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
- 82 Builders and demolishers are required to confine access to building and demolition sites to no more than two 3m driveways, and provide a footpath protection pad over Council's footpath at these points (see attached detail). Within the site, provision of a minimum of 100mm coarse crushed rock is to be provided for a minimum length of 2 metres to remove mud from the tyres of construction vehicles.
- A vehicle wheel wash, cattle grid, wheel shaker or other appropriate device, shall be installed prior to commencement of any site works or activities, to prevent mud and dirt leaving the site and being deposited on the street. Vehicular access is to be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site is muddy. Where any sediment is deposited on roadways it is to be removed by means other than washing and disposed of appropriately.
- In addition builders / demolishers are required to erect a 1.5m high fence along the whole of the street alignment other than at the two openings. Such protection work, including fences, is to be constructed, positioned and maintained in a safe condition to the satisfaction of the Principal Certifying Authority, prior to the demolition of the existing structures and commencement of building operations.
- 83 Building, demolition and construction works not to cause stormwater pollution and being carried out in accordance with Section 2.8 of Council's Stormwater Pollution Control Code 1993. Pollutants such as concrete slurry, clay and soil shall not be washed from vehicles onto roadways, footways or into the stormwater system. Drains, gutters, roadways and access ways shall be maintained free of sediment. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.
- Note:** The Applicant may be liable to prosecution under the Environmental Planning and Assessment Act 1979 for a breach of an approval condition, or under the Protection of the Environment Operations Act 1997, if its employees, agents or sub-contractors allow sediment, including soil, excavated material, building materials, or other materials to be pumped, drained or allowed to flow to the street, stormwater pipes or waterways. The Applicant shall ensure that its employees, agents or sub-contractors understand and maintain sediment control measures.
- 84 Construction related activities must not take place on the roadway without Council approval. Short-term activities (including operating plant, materials delivery) that reduce parking spaces, affect access to a particular route or prevent or restrict the passage of vehicles along the road must not occur without a valid Temporary Roadside Closure Permit. Activities involving occupation of the parking lane for durations longer than allowed under a Temporary Roadside Closure Permit require a Construction Zone Permit and must not occur prior to the erection of Construction Zone signs by the RTA. Permit application forms should be lodged at Council's Customer Service Centre allowing sufficient time for evaluation. An information package is available on request.
- 85 There shall be no encroachment of paths, fencing or other improvements onto the drainage easements without Council approval.

- 86 All footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken by Council, or by a Private Licensed Contractor subject to the submission and approval of a Private Contractor Permit, together with payment of all inspection fees. An estimate of the cost to have these works constructed by Council may be obtained by contacting Council on 9562 1670. The cost of conducting these works will be deducted from the Footpath Reserve Restoration Deposit, or if this is insufficient the balance of the cost will be due for payment to Council upon completion of the work.
- 87 All driveway, footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken in accordance with Council's Subdivision and Civil Works Construction Specification (AUS-SPEC 1). Amendment to the works specification shall only apply where approved by Council. Where a conflict exists between design documentation or design notes and AUS-SPEC 1, the provisions of AUS-SPEC 1 shall apply unless otherwise approved by Council.
- 88 This Roads Act approval does not eradicate the need for the Contractor to obtain a Road Opening Permit prior to undertaking excavation in the road or footpath.
- 89 Stormwater management requirements for the development site, including the final discharge / end connection point, must comply with Botany DCP Part 10 – Stormwater Management.
- 90 Fire booster assemblies and electrical kiosks and the like are to be housed within the building structure or screened by a built screen enclosure and/or landscaping so as not to reduce the visual amenity of the development or the streetscape and public domain.
- 91 During excavation and construction work the Council nature strip shall be maintained in a clean and tidy state at all times. The nature strip shall be suitably replaced where damaged due to construction work in accordance with Council Specification at the completion of construction, and at the Applicant's expense.
- 92 During excavation and construction works, the applicant / builder is required to ensure the protection and preservation of all boundary fencing or boundary walls between the subject site and adjoining properties. Any damage caused as a result of such works will be at the full cost of the applicant/builder.
- 93 An experienced Landscape Contractor shall be engaged to undertake the landscaping work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirement
- 94 Vibration levels induced by the demolition activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building.
- 95 The following shall be complied with during construction and demolition:
- (a) Construction Noise
 - (i) Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the Protection of the Environment Operations Act 1997.
 - (b) Level Restrictions

- (i) Construction period of 4 weeks and under:
 - (1) The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20dB(A).
 - (ii) Construction period greater than 4 weeks and not exceeding 26 weeks:
 - (1) The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
 - (c) Time Restrictions
 - (i) Monday to Friday 07:00am to 05:00pm
 - (ii) Saturday 08:00am to 01:00pm
 - (iii) No demolition or construction to take place on Sundays or Public Holidays.
 - (d) Silencing
 - (i) All possible steps should be taken to silence construction site equipment.
- 96 To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:
- a) Office of Environment and Heritage (OEH) approved guidelines; and
 - b) Protection of the Environment Operations Act 1997; and
 - c) Protection of the Environment Operations (Waste) Regulation 2014.
- All imported fill shall be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.
- 97 The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
- a) The Soil and Water Management Plan;
 - b) “Managing Urban Stormwater - Soils and Construction” (2004) Landcom (‘The Blue Book’); and
 - c) Protection of the Environment Operations Act 1997.
- 98 During demolition, excavation, construction and any associated delivery activities, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any construction-related vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council’s lands, public roads and road-related areas. Hosing down of vehicle tyres

shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's lands.

- 99 Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately. All work on site shall cease until the council is notified and appropriate measures to assess and manage the contamination in accordance with any relevant NSW EPA adopted guidelines is completed by an appropriately qualified and experienced environmental consultant.
- 100 Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
- a) SafeWork NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos.
 - b) Protection of the Environment Operations Act 1997.
 - c) Protection of the Environment Operations (Waste) Regulation 2014.
 - d) NSW Environment Protection Authority Waste Classification Guidelines 2014.
- 101 During Demolition, Excavation and Construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be make safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure and surrounding development (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
- 102 During Demolition, Excavation, Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's land.
- 103 During construction, the applicant shall ensure that all works and measures have been implemented in accordance with approved Traffic Management Plan and Construction Management Plan at all times.
- 104 During demolition, excavation and construction, the applicant shall ensure that the development complies with the approved waste management plan.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF THE OCCUPATION CETIFICATE

- 105 Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109M of the Environmental Planning and Assessment Act 1979.

- 106 The approved recommendations from the Flood Management Report shall be implemented prior to occupation.
- 107 All works within the road reserve, which are subject to approval pursuant to Section 138 of the Roads Act 1993, shall be completed and accepted by council.
- 108 The applicant is responsible for the installation and protection of all regulatory/ parking / street signs fronting the property. Any damaged or missing street signs as a consequence of the development and associated construction works shall be replaced at full cost to the applicant.
- 109 Evidence of a Sydney Water permit or consent for discharge of wastewater to the sewer shall be submitted to the Principal Certifying Authority prior to any use or occupation of the premises. Where a permit or consent may not be required from Sydney Water, certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.
- 110 At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to the Bayside Council prior to the issue of the relevant Occupation Certificate.
- 111 The southern vehicular driveway in Banks Avenue to be clearly marked and signposted "entry" from the street and "no exit" internally, the northern vehicle driveway to be clearly marked "exit" internally and "no entry" from the street.
- 112 Vehicles shall enter and exit the site in a forward direction at all times. A plaque with minimum dimensions 300mm x 200mm shall be permanently fixed to the inside skin of the front fence, or where there is no front fence a prominent place approved by the Principal Certifying Authority, stating the following: "Vehicle shall enter and exit the site in a forward direction at all times".
- 113 Prior to completion of the building works, a full width vehicular entries are to be constructed to service the property. The obsolete vehicular entry in Haig Avenue is to be removed and reconstructed with kerb and gutter. This work may be done using either a Council quote or a private contractor. There are specific requirements for approval of private contractors.
- 114 The width of the single driveway shall be a minimum of 2.5 metres and a maximum of 3.0 metres.
- 115 15 off-street car spaces shall be provided in accordance with the submitted plan and shall be sealed and linemarked to Council's satisfaction. The pavement of all car parking spaces, manoeuvring areas and internal driveways shall comply with Australian Standard AS3727 – Guide to Residential Pavements.
- 116 The minimum habitable/commercial floor level shall be constructed at or above 21.77 m AHD (PMF flood level). The floor level shall be certified by a registered surveyor prior to pouring of floor slab or installation of flooring.
- 117 Prior to occupation a Chartered Professional Engineer shall certify that the stormwater system has been constructed in accordance with the approved plans and as required by Botany DCP Part 10 – Stormwater Management Technical guidelines and include an evaluation of the completed drainage works. A works-as-executed drainage plan shall be prepared by a registered surveyor based on a survey of the completed works. A copy of the certificate and works-as-executed plan(s) shall be supplied to the

- Principal Certifying Authority. A copy shall be provided to Council if Council is not the Principal Certifying Authority.
- 118 All absorption trenches must be inspected, and a compliance certificate under Part 4A of the EP&A Act issued prior to back filling and proceeding to subsequent stages of construction. Copies of the certificate are to be maintained by the principal certifying authority and be made available to Council officers upon request.
- 119 All modular drainage cell installations must be inspected, and a compliance certificate under Part 4A of the EP&A Act issued prior to back filling and proceeding to subsequent stages of construction. Copies of the certificate are to be maintained by the principal certifying authority and be made available to Council officers upon request.
- 120 Materials which may be damaged by flood waters shall be stored, or able to be stored at or above 22.27 metres Australian Height Datum, which is 500mm above the PMF Flood
- 121 The development shall comply with the Flood Advice letter issued by Council on 27 March 2018.
- 122 The maximesh screens and removable geotextile are to be installed in the absorption system prior to connection of the downpipes to ensure the effective performance of the system during construction and the long term viability of the system.
- 123 A positive covenant pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the stormwater retention facility to provide for the maintenance of the retention facility.
- 124 Drainage grates shall be provided at the boundary. Width of the drainage grates shall be in accordance with Botany DCP Part 10 – Stormwater Management Technical guidelines.
- 125 The drainage system shall be constructed in accordance with the approved drainage plans and any amendments in red. All stormwater drainage plumbing work shall comply with the NSW Code of Practice: Plumbing and Drainage and Australian Standard AS3500.
- 126 A silt/litter arrestor pit as detailed in Botany DCP Part 10 – Stormwater Management Technical guidelines shall be provided prior to discharge of stormwater from the site.
- 127 Signs shall be displayed adjacent to all stormwater drains on the premises, clearly indicating "Clean water only - No waste".
- 128 The owner of the premises shall inform Sydney Water that a Rainwater tank has been installed in accordance with applicable requirements of Sydney Water.
- 129 The overflow from the rainwater tank shall be directed to the storm water system.
- 130 A first flush device shall be installed to reduce the amount of dust, bird faeces, leaves and other matter entering the rainwater tank.
- 131 Construction related activities must not take place on the roadway without Council approval. Short-term activities (including operating plant, materials delivery) that reduce parking spaces, affect access to a particular route or prevent or restrict the passage of vehicles along the road must not occur without a valid Temporary Roadside Closure Permit. Activities involving occupation of the parking lane for durations longer than allowed under a Temporary Roadside Closure Permit require a Construction Zone Permit and must not occur prior to the erection of Construction Zone signs by the RTA.
- 132 Permit application forms should be lodged at Council's Customer Service Centre allowing sufficient time for evaluation. An information package is available on request.

- 133 The following works will be required to be undertaken in the road reserve at the applicant's expense:
- a) construction of a new fully constructed concrete vehicular entrance/s;
 - b) removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
- 134 This Roads Act approval does not eradicate the need for the Contractor to obtain a Road Opening Permit prior to undertaking excavation in the road or footpath.
- 135 Any driveway works to be undertaken in the footpath reserve by a private contractor requires an "Application for Consideration by a Private Contractor" to be submitted to Council together with payment of the application fee. Works within the footpath reserve must not start until the application has been approved by Council.
- 136 Prior to the issue of the relevant Occupation Certificate, a total of 15 off-street car spaces and 11 off-street drop off-pick up spaces shall be provided in accordance with the submitted plans. Such spaces shall be paved, linemarked and made freely available at all times during business hours of the site for staff and visitors.
- 137 Any damage not shown in the photographic survey submitted to Council before site works have commenced will be assumed to have been caused by the site works (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction, prior to occupancy of the development and release of damage deposit.
- 138 Trading shall not commence until a final fit out inspection has been carried out by Council's Environmental Health Officer and all health related conditions of consent have been complied with. Council's Environmental Health Officer shall be given 2 business days advance notice of an inspection.
- 139 The noise reduction measures specified in the noise reports prepared by Day Design Pty Ltd- Report Number 6380-1.1R Rev D. 'Environmental Noise Assessment' dated the 5 February 2019 and Report Number 6380-1.2R Rev C, 'Aircraft Noise Intrusion' dated the 25 January 2019 shall be validated by a Certificate of Compliance prepared by the acoustic consultant and submitted to the Principal Certifying Authority (PCA) prior to the issue of an Occupation Certificate. If Council is not the PCA, a copy shall be submitted to Council concurrently.
- 140 The premises shall be registered with Council's Environmental Health Unit by the proprietor of the food business by completing the registration form available from Council.
- 141 An operational Plan of Management, Emergency Management and Evacuation Plan is to be submitted to Council prior to the issue of the Occupation Certificate to ensure that the proposed premises operates in a manner that maintains a high level of amenity.

CONDITIONS WHICH MUST BE SATISFIED DURING THE ONGOING USE OF THE DEVELOPMENT

- 142 A maximum of 470 students may attend the school at any one time. If additional students are proposed to attend the school at any one time then this must form the subject of a further application to Council.

- 143 Ongoing maintenance of the road verges and footpaths and nature strips in Haig Avenue and Banks Avenue shall be undertaken by the owner/school body. Maintenance includes mowing, watering and maintaining the landscaping in these areas at all times. Maintenance does not include pruning, trimming, shaping or any work to street trees at any time.
- 144 The use of the premises shall not give rise to any of the following when measured or assessed at “sensitive” positions within any other property. These “sensitive” positions should be selected to reflect the typical use of a property (ie any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.
- (a) The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).
 - (b) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
 - (c) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.
 - (d) For assessment purposes, the above L_{Aeq} sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.
- 145 All parking bays shown on the approved architectural plans shall be set aside for parking purpose only and shall not be used for other purposes, e.g. storage of goods. Vehicle turning areas shall be kept clear at all times and no vehicles are permitted to park in these areas.
- 146 The contractor shall be engaged weekly for a minimum period of 13 weeks from final completion of landscaping for maintenance and effects liability, replacing plants in the event of death, damage, theft or poor performance. After that time, regular and ongoing maintenance is required.
- 147 Ongoing traffic arrangements for the site shall be in accordance with the approved Traffic Management plan for the site and clearly communicated to the students parents and staff during the ongoing operation of the school.
- 148 The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the retention system. The registered proprietor will:
- a) permit stormwater to be retained by the system;
 - b) keep the system clean and free of silt, rubbish and debris;
 - c) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner, and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;

- d) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
 - e) not make any alterations to the system or elements thereof without prior consent in writing of the Council;
 - f) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirements of this clause;
 - g) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
- 149 All wastewater and stormwater treatment devices (including drainage systems, sumps and traps) shall be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device shall be disposed of in accordance with the Protection of the Environment Operations Act, 1997.
- 150 The rainwater tank shall be routinely de-sludged and all contents from the de-sludging process disposed – solids to the waste disposal and de-sludged liquid to the sewer.