

Assessment report to Sydney Central City Planning Panel

Panel reference: PPSSCC-405

Development application

| | | | |
|-----------------------------|--|------------------------------|-----------------|
| DA number | SPP-22-00008 | Date of lodgement | 1 November 2022 |
| Applicant | Ali Hammoud | | |
| Owner | Illuminate NSW Limited | | |
| Proposed development | Demolition of existing structures, tree removal, Stage 1 - erection of temporary demountable private school rooms and use of the existing house as an administration office and car park; Stage 2 - construction of part of a new private 3-storey primary school educational establishment over a basement car park with associated excavation and earthworks, stormwater and landscaping works; Stage 3 - demolish demountable rooms and complete new school building and basement carpark | | |
| Street address | 39 Beames Avenue, Rooty Hill | | |
| Notification period | 30 November to 12 December 2022 | Number of submissions | 2 |

Assessment

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| Panel criteria Schedule 6 of the State Environmental Planning Policy (Planning Systems) 2021 | <ul style="list-style-type: none"> Capital investment value over \$5 million for private infrastructure and community facilities (proposal has a Capital investment value of \$19.5 million). |
| Relevant section 4.15(1)(a) matters | <ul style="list-style-type: none"> Environmental Planning and Assessment Act 1979 State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 Central City District Plan 2018 Blacktown Local Strategic Planning Statement 2020 Blacktown Local Environmental Plan 2015 Blacktown Development Control Plan 2015 |
| Report prepared by | Jared Spies |
| Report date | 24 May 2023 |
| Recommendation | Refuse, based on the grounds listed in the report. |

Attachments

- 1 Location map
- 2 Aerial image
- 3 Zoning extract
- 4 Detailed information about proposal and DA submission material
- 5 Development application plans
- 6 Applicant's Clause 4.6 variation submission

Checklist

Summary of section 4.15 matters

| | |
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| Have all recommendations in relation to relevant section 4.15 matters been summarised in the Executive summary of the Assessment report? | Yes |
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Legislative clauses requiring consent authority satisfaction

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| 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 summarised in the Executive Summary of the Assessment report? | Yes |
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Clause 4.6 Exceptions to development standards

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| 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 |
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Special Infrastructure Contributions

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| Does the DA require Special Infrastructure Contributions conditions (section 7.24)? | Not applicable |
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1 Executive summary

- 1.1 The key issues that need to be considered by the Panel in respect of this application are:
- Concerns raised by Transport for NSW relating to the traffic impacts associated with the development that remain unresolved.
 - No owner's consent has been provided for the proposal to drain into the private drainage reserve at the rear of the site. The drainage reserve is owned by the owners of Strata Plan 94026, being the town house development to the south of the site. Given the drainage strategy for the site relies on discharging stormwater into this private drainage reserve, the site is unsuitable for this proposal without this adjoining owner's consent.
 - Flood impacts associated with the development are not yet known as the submitted flood study report is insufficient and requires further flood modelling. This will have implications on the final design of the proposed building.
 - The proposal is inconsistent with the 7 design quality principles for schools outlined in State Environmental Planning Policy (Transport and Infrastructure) 2021 due to safety related flooding issues and the character of the development in the context of the surrounding built form.
 - The applicant's Clause 4.6 variation request is not supported. The actual height of the building is not yet known as it will have to be raised to address flood impacts. The resultant amenity impacts on the neighbouring development therefore cannot be fully assessed.
 - Insufficient information has been provided pursuant to Clause 36 of the Environmental Planning and Assessment Regulation 2021 to enable a thorough assessment of the proposed development in relation to environmental health, traffic, engineering, drainage, biodiversity and open space matters.
 - Demolition of the Stage 1 car park is not supported prior to the Stage 2 carpark being operational because it will displace staff car parking and will force staff to rely on on-street parking during the entire construction of the Stage 2 car park.
- 1.2 Assessment of the application against the relevant planning framework and consideration of matters by our technical departments have identified key issues of concern that cannot be dealt with by conditions.
- 1.3 The application is considered to be unsatisfactory when evaluated against Section 4.15 of the Environmental Planning and Assessment Act 1979.
- 1.4 This report recommends that the Panel refuse the application based on the grounds listed in the Recommendation at section 11 below.

2 Location

- 2.1 The site is located at 39 Beames Avenue, Rooty Hill.
- 2.2 Rooty Hill train station is 720 m to the east. Blacktown Central Business District is located 6.2 km to the east.
- 2.3 To the north of the site, on the opposite side of Beames Avenue, is the railway line, Rooty Hill RSL/West HQ, Rooty Hill High School and the Rooty Hill residential suburb. A public reserve is immediately to the west of the site. The locality to the south of Beames Avenue is characterised by single and double storey residential dwellings. A town house development made up entirely of double storey dwellings is to the south (rear of the site) and separated from the site by a 13 m wide private drainage reserve owned by the body

corporate of Strata Plan 94026. The overpass of Francis Road is also immediately to the east of the site.

- 2.4 The location of the site is shown at attachment 1.

3 Site description

- 3.1 The site is legally described as Lot 2 DP 1218971 and has a registered site area of 7,534 m². It is zoned R2 Low Density Residential under Blacktown Local Environmental Plan 2015.
- 3.2 The site is irregular in shape. It has a street frontage to Beames Avenue along the northern boundary measuring 20.25 m, an eastern side boundary facing the Francis Road overpass measuring 102.06 m, a southern rear boundary measuring 101.49 m and a western side boundary measuring 95.84 m.
- 3.3 The site is currently occupied by a dwelling, associated outbuildings and a pool. The south eastern corner of the site contains Cumberland Plain Woodland and is mapped as having biodiversity values.
- 3.4 An aerial image of the site and surrounding area is at attachment 2. The zoning plan for the site and surrounds is at attachment 3.

4 Background

- 4.1 This site was subject of a previous State Significant Development (SSD-24537961), also for a school. A pre-lodgement meeting was held with Ali Hammoud (the applicant) and Council for that proposal on 18 November 2020. The issues raised in the minutes for that meeting include but are not limited to the following:
- The proposal is a State Significant Development.
 - The need to comply with the requirements of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 which was the Planning Policy applicable at the time.
 - Demonstration of the orderly delivery of the proposed development and associated civil infrastructure.
 - The driveway to service the temporary car park needs to be widened to 5.5 m to allow for 2-way traffic movement.
 - Demonstration that there is sufficient parking on site and that there will be no on-street parking or truck queuing traffic related issues resulting from the development. The proposal cannot create on-street parking problems and must be able to cater for its own car parking and truck demands within the site.
 - If the development cannot comply with traffic requirements, it is recommended to seek an alternative site.
 - Flood planning restrictions and levels will apply due to the rear channel water level. A "flood advice letter" is to be obtained for flood development controls/certificates for the site.
 - Securing a legal point of discharge through the rear of the site or any other existing easement.

The land was purchased in May 2021 by the current owner prior to the lodgement of the State Significant Development application. Council then received correspondence on 4 August 2021 from NSW Department of Planning and Environment inviting us to provide comments on that development after it was lodged with the Department. We provided

comments on 19 August 2021, but the application did not continue any further. The issues raised in our comments were as follows:

- The Environmental Impact Statement for the school must address all the requirements already issued by Council in the pre-application meeting minutes.
- The 9 m maximum height limit prescribed by Blacktown Local Environmental Plan 2015 will be exceeded by 6.5 m as the overall building height is 15.5 m. We discourage a building of this height, particularly when the highest point of the proposed building faces towards residential properties to the south. Therefore, we recommend the scale of the building be reduced so that only plant and equipment exceed the height limit. The development application must be accompanied by a Clause 4.6 variation request for any variation to the height limit.
- The engineering plans are to ensure that infrastructure associated with the development is in accordance with Council's Engineering Guide for Development – 2005.
- A detailed traffic and parking assessment is to be prepared for the proposal by an accredited traffic engineer. The assessment is to include the following as a minimum:
 - The capacity and function of the existing road network.
 - Traffic generation of the proposal and its impact on the surrounding road network.
 - Parking provision for the overall development.
 - Assessment of pedestrian movements and safety.
 - Feasibility of alternate modes of transportation.

The applicant and the school proposed were both the same for that proposal as they are for the subject proposal.

- 4.2 The subject application was lodged on 1 November 2022 after the State Environmental Planning Policy (Planning Systems) 2021 changed the determining authority for educational establishments with a Capital investment value of less than \$20 million but more than \$5 million to the Sydney Central City Planning Panel. No pre-lodgement meeting was held.
- 4.3 The application was referred to Transport for NSW for comments in accordance with Clauses 2.119 and 2.122 of the State Environmental Planning Policy (Transport and Infrastructure) 2021 for developments with frontage to a classified road and traffic generating development.
- 4.4 On 30 January 2023, Transport for NSW wrote to Council, identifying a number of issues in relation to the application. The issues raised by Transport for NSW have been discussed in detail in section 8.1 of this report.
- 4.5 On 2 February 2023, at the request of the Sydney Central City Planning Panel chair, we requested the applicant resolve these issues separately with Transport for NSW ahead of the "kick-off" briefing scheduled for 23 February 2023 with the Sydney Central City Planning Panel.
- 4.6 On 17 February 2023, we then sent a separate request for information to the applicant raising internal concerns relating to planning, engineering, traffic, environmental health, biodiversity, recreational planning design and open space matters. It also summarised the issues raised in the objection received from public during the notification period to the development.
- 4.7 On 23 February 2023, the "kick-off" briefing was held with the Sydney Central City Planning Panel chair, Council staff and the applicant's team in attendance. Matters raised

in the request for information were discussed as well as the issues raised by Transport for NSW.

- 4.8 On 17 March 2023 we received additional information from the applicant which included amended plans. This information was initially due on 10 March 2023, but upon request from the applicant, an extension of time (7 days) was granted. This information was assessed and still found to be insufficient to enable us to undertake a proper assessment of the proposal.
- 4.9 On 11 May 2023, we met with the Panel chair in our monthly update meeting to provide an update on the DA assessment progress. During the course of the meeting it was agreed that the application be listed for determination based on the information provided to date.

5 The proposal

- 5.1 The development application has been lodged by Ali Hammoud.
- 5.2 The applicant proposes construction of a private 3-storey primary school educational establishment in 3 stages including:
 - Demolition of all existing structures.
 - Removal of up to 14 trees outside of the biodiversity values mapped area of the site and planting of 36 native trees.
 - Basement and lower ground level car parking levels with associated excavation and earthworks.
 - Stormwater management works including the construction of a drainage pipe along the southern boundary that discharges into the private drainage reserve at the rear.
 - Landscaping including groundcovers and shrubs.
- 5.3 Stage 1 of the development proposal includes:
 - Demolition of the existing detached shed, swimming pool and surrounding structures.
 - Removal of up to 14 trees.
 - Alterations to the existing dwelling house to convert it into an administration office and staff amenities building.
 - Installation of a temporary school containing 8 temporary demountable classroom structures and 2 sanitary facility structures.
 - Realignment of the existing driveway further towards the eastern boundary of the site.
 - Construction of a new on-ground car parking area comprising 14 car parking spaces, 1 loading zone and bicycle parking facilities.
 - Use of the site as a primary school for years 0 to 6 comprising a total of 8 classrooms catering for a student population of 200 students and 10 staff.
- 5.4 Stage 2 of the development proposal includes:
 - Demolition of the administration building (converted dwelling house) and all on site car parking areas.
 - Construction of part of a 3-storey school building and including part of the basement and lower ground level car park comprising a total of 39 car parking spaces (5 accessible) and 1 loading zone.
 - Construction of administration and staff rooms, sanitary facilities and 3 classrooms on the ground floor.

- Construction of 6 classrooms and sanitary facilities on level 1 and construction of 6 classrooms and sanitary facilities on level 2, expanding the primary school to comprise a total of 15 classrooms catering for a student population of 450 students and 20 staff.

5.5 Stage 3 of the development proposal includes:

- Decommissioning of the temporary classrooms and 2 sanitary facility structures and removal from the site.
- Extend the construction of the basement carpark to provide an additional 22 car spaces.
- Construction of 6 additional classrooms on the ground floor level.
- Construction of a library and multi-purpose hall on level 2.
- Expanding the primary school to comprise a final total of 21 classrooms catering for a student population of 630 students and 30 staff.

5.6 The building ranges in height from 9.1 m at its northern façade to 11.6 m at its southern façade. It has a single consolidated built form that avoids encroachment into the biodiversity values mapped portion of the site. A variety of materials and colours are proposed for the building including:

- Light grey and brown coloured brick.
- Dark grey and light brown coloured screens over windows.
- Light and blue coloured cladding.
- Grey window frames.

5.7 Other details about the proposal are at attachment 4 and a copy of the development plans is at attachment 5.

6 Assessment against planning controls

6.1 A summary assessment of the development application against the section 4.15(1)(a) matters is provide below but only for those planning controls that directly relate to its refusal.

6.2 Section 4.15 'Heads of Consideration'

| Heads of Consideration | Comment |
|--|---|
| a. The provisions of: (i) Any environmental planning instrument | Blacktown Local Environmental Plan 2015 applies to the site. The proposal exceeds the 9 m maximum building height limit applicable to the site under Blacktown Local Environmental Plan 2015. The Clause 4.6 variation request is not supported for the reasons listed in section 8.6 below. |
| (ii) Any proposed instrument that is or has been the subject of public consultation under this Act | N/A |
| (iii) Any development control plan | Blacktown Development Control Plan 2015 applies to the site. Section 8.2 requires applicants to submit downstream owners consent if stormwater is to be discharged onto downstream owner's land. The proposal relies upon runoff being discharged to the private drainage reserve at the rear of the site, which is not |

| Heads of Consideration | Comment |
|---|---|
| | <p>part of the subject land. Downstream owners' consent has not been submitted with this development application.</p> <p>Section 8.5 includes provisions for maximum depth of cut of 0.9 m. However, retaining walls of 3.5 m are proposed to accommodate the excavation associated with construction of the basement parking, which far exceeds the 0.9 m maximum. This is likely to have an impact on the flood liability of the land by displacing flood storage and flows which could also impact on the surrounding residential neighbours.</p> |
| (iii a) Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4 | <p>A voluntary planning agreement relating to water sensitive urban design and integrated water cycle management between Council and the developer was executed on 16 February 2023. Part J of Blacktown Development Control Plan 2015 requires all development where a S7.11 Contributions Plan applies to meet the water quality requirements through the provision of contributions in line with the Contributions Plan. Developers may also enter into a voluntary planning agreement with Council to offset their water quality requirements off-site, which is the option this developer has chosen. However, this only relates to water quality not water quantity that still requires the stormwater management strategy to not negatively impact on the downstream property.</p> |
| (iv) The regulations (to the extent that they prescribe matters for the purposes of this paragraph) | <p>The development application is contrary to Clause 36 of the Environmental Planning and Assessment Regulation 2021 as the applicant is required to provide all the necessary and requested information to Council to allow for a proper assessment of the application.</p> |
| b. The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality | <p>It is considered that the likely environmental impacts of the development cannot be adequately assessed in terms of traffic, environmental health, access, flooding, amenity and drainage. Therefore, the application cannot be supported in its current form.</p> |
| c. The suitability of the site for the development | <p>The site is not considered suitable for the development as the traffic, environmental health, access, flooding, amenity and drainage impacts that would result from the development at this location have not been addressed to Council satisfaction based on the limited information provided to date.</p> <p>Insufficient information has been provided to determine if the site is suitable for the development from a contamination perspective as a Detailed Site Investigation has not been provided to date. This was requested from the applicant on 17 February 2023.</p> |
| d. Any submissions made in accordance with this Act, or the regulations | <p>As a result of the notification of the application, 2 individual submissions were received. Some of the issues raised are valid and are similar to our own concerns with the development - refer to Section 7 below.</p> |
| e. The public interest | <p>The application in its current form is not considered to be in the public interest due to the valid concerns raised by the public during notification as well as the number of planning, engineering,</p> |

| Heads of Consideration | Comment |
|------------------------|--|
| | traffic, environmental health and traffic issues that have not been addressed to Council's satisfaction. |

7 Issues raised by the public

- 7.1 The proposed development was notified to 104 property owners and occupiers in the locality between 30 November to 12 December 2022. The proposal was also placed on Council's website for the public to view and a sign was erected at the front of the site.
- 7.2 We received 2 submissions comprising:
- 1 individual objection from a resident.
 - A submission from School Infrastructure NSW that did not raise any objections to the proposal but rather made recommendations for our consideration.
- 7.3 The issues raised by the resident relate to traffic, safety impacts, insufficient road upgrades and the school not being in character with the surrounding area.
- 7.4 The concerns raised are sufficient to warrant refusal of the development application on the basis that the objector is raising valid concerns similar to our own which the applicant, to date, has not satisfactorily addressed.

8 Key issues and reasons for refusal

8.1 Concerns raised by Transport for NSW remain unresolved

- 8.1.1 As outlined in Section 4 (Background) above, the applicant was requested to liaise directly with Transport for NSW to resolve the issues it raised. The amended traffic report we received on 17 March indicates that a discussion took place between the applicant's consultant and Transport for NSW on 6 March 2023. It is unclear what discussions occurred to resolve the issues raised by Transport for NSW.
- 8.1.2 In its second response (dated 26 April 2023), Transport for NSW again confirmed that the impacts of the proposed primary school on the classified road network have not been satisfactorily assessed. Transport for NSW recommended that the applicant's traffic impact assessment be revised to address the following key concerns and for the revised traffic report to be submitted back to Transport for NSW for review, namely:
- Use more conservative traffic generation rates. The closest public transport stop/station is the bus stops at Charlotte Road, approximately 500 m from the school access point, which is outside of the walkable distance for primary school kids. Therefore, the traffic generation is under-estimated with the adopted traffic generation rates in Section 7 of the Traffic Report. As such, more conservative traffic generation rates should be used in the assessment.
 - Include further information and data to support the trip distribution assumptions.
 - Include the Francis Road/Charlotte Road and Francis Road/Orion Street intersections. There is potential for development vehicles utilising the Francis Road/ Charlotte Road and Francis Road/ Orion Street intersections to access the broader road network.

Transport for NSW notes that there is vehicle queuing on Charlotte Road approaching Francis Road during peak periods. There have been 5 crashes (including 1 senior injury) reported at the Francis Road/Charlotte Road

intersection over the 5-year period from 1 July 2016 to 30 June 2021. Additional traffic demand exiting Charlotte Road would likely exacerbate the situation, resulting in increasing possibility of car crashes.

- include current, future and long-term scenarios. As significant traffic will be generated by the proposed development, the following scenarios should be included in the traffic impact assessment:
 - Existing traffic condition.
 - Year of each development stage being completed.
 - 10 years after completion of full development.

To ensure that the above requirements are fully addressed, the transport and traffic study must properly ascertain the cumulative study area traffic impacts associated with the development (and any other known proposed developments in the area) and identify the measures to mitigate these impacts

- Include the SIDRA modelling files.
- Include further information on School Zones. A significant number of vehicles and pedestrians will access the site at the start and end of the school day. School Zones must be installed along all roads with a direct access point (either pedestrian or vehicular) from the school if the school is a registered school.

8.1.3 Since insufficient information has been provided to enable Transport for NSW to assess the proposal, Transport for NSW does not support the current proposal.

8.2 Owners' consent has not been provided for the proposal to drain into the private drainage reserve at the rear of the site

8.2.1 The proposal relies upon runoff being discharged to the private drainage reserve at the rear of the site. This private drainage reserve is on the neighbouring land parcel to the south of the site which contains a 60-unit town house complex. This drainage channel forms part of the common property in the strata plan of this town house development known as CP/SP94026. The owners' consent of the strata plan's body corporate is required to discharge stormwater into this land and their drainage channel.

8.2.2 Owner's consent has not been provided to date even though it was requested on 17 February 2023. Therefore, this development cannot discharge stormwater as proposed and so cannot be supported in its current form as it can't be drained.

8.3 The applicant has not addressed the flood impacts of the proposal satisfactorily

8.3.1 The subject site is also affected by overland flow area due to a watercourse adjoining the southern boundary of the site which influences the site's flooding. Therefore, any new development within the 1 in 100 year flood event overland flow area requires a Flood Study Report to ensure that it does not increase the flood risk to life in this proposal or in the surrounding area.

8.3.2 The application was accompanied by a flood study report which was reviewed by our Drainage Engineering Section. Our drainage engineers are not satisfied with the findings of the flood study for the following reasons:

- The flood study is flawed and inconclusive on flood levels and flood risk category due to the following:
 - The flood study does not correctly reflect the proposed building layout.

- The temporary demountable classes are proposed to be located in the flood affected areas of the site but have not been considered in the analysis.
- The catchment impervious percentages are incorrect. The upstream catchment impervious areas cannot be modelled less than 80%.
- It is not clear from the current flood modelling if the flood risk category will be H2 flood hazard rating or higher. If so these areas need to be designed with no access to children or have special designs to reduce the flood risk to H1 (H being a flood hazard indicator where the higher the associated number the higher the flood hazard).
- The proposed buildings do not comply within minimum floor levels due to flooding plus freeboard.
- It is not clear how the basement will be protected from filling up with flood waters.

It should be noted that the above necessary amendments to the flood study could result in higher minimum floor levels being required. The calculations and criteria used in the current flood modelling is flawed and is not a true reflection of the likely impact of this flood event.

- 8.3.3 To mitigate flood risk for the proposed building, the submitted flood study recommends a minimum floor level 0.5 m above the 1 in 100 year flood level being 47.5 m Australian Height Datum. Our drainage engineers have advised that, in accordance with Council's Water Sensitive Urban Design developer handbook, the minimum floor level can be reduced to 0.3 m above the 1 in 100 year flood level or 47.3 m Australian Height Datum. The plans, however, show the ground floor of the building at 47 m Australian Height Datum. The ground floor is therefore proposed 0.3 m below the required minimum floor levels and will not comply.
- 8.3.4 In addition, the Stage 1 demountable buildings will be located within the flood area. Their proposed floor levels have not been indicated on the plans, so there is insufficient information to enable us to understand flood impacts on the demountable buildings being in the flood area. The existing site levels, where the demountables are proposed, are also lower than 47 m Australian Height Datum i.e. lower than the minimum floor level identified in the flood study.
- 8.3.5 Based on the above the proposal does not achieve key objectives of Clause 5.21 of Blacktown Local Planning Panel 2015 relating to flood planning, being:
- To minimise the flood risk to life and property associated with the use of land.
 - To allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change.
 - To avoid adverse or cumulative impacts on flood behaviour and the environment.
 - To enable the safe occupation and efficient evacuation of people in the event of a flood.

Therefore, the proposal cannot be supported in its current form as the site is not suitable.

8.4 The proposal is inconsistent with the design quality principles in State Environmental Planning Policy (Transport and Infrastructure) 2021

8.4.1 Schedule 8 of the State Environmental Planning Policy (Transport and Infrastructure) 2021 contains 7 design quality principles for schools. Consent authorities must take these into consideration before determining an application for a school. It is considered that the Principles 4, 5 and 7 have not been satisfied as outlined below:

8.4.2 Principle 4 - health and safety:

- Due to the unresolved significant flood issues identified by our flood engineers, the applicant's proposal to put children, staff and parents in a new school which will be at risk of being inundated by floodwaters is considered seriously unsafe.
- Therefore, the proposed location of the buildings does not optimise health, safety and security.

8.4.3 Principle 5 - amenity:

- The amenity of the adjacent town house development to the south will be negatively impacted by the proposal from a visual standpoint. The height, bulk and scale of the proposed 3-storey building is out of character with the town house development that consists entirely of double storey dwellings that are compliant with the applicable 9 m maximum building height limit. Other predominantly residential development in the locality is also characterised by single and double storey-built form that all complies with the same building height limit.
- The 2nd and 3rd storeys of the new school building each have 3 large windows and a balcony that will look out directly onto the southern town house complex. Whilst a 20 m separation between the nearest dwelling and the school building is acknowledged, it is not considered sufficient to prevent privacy impacts on the town house complex. No visual or acoustic screens, frosted glass or other privacy or noise mechanisms are proposed to prevent negative privacy and noise impacts associated with overlooking into the neighbouring town houses.
- Shadow impacts of the proposed building on the dwelling to the south cannot be accurately measured without knowing the ultimate height of the building above natural ground level, which may need to be raised to address flooding.
- Therefore, the amenity of adjacent existing development will be negatively impacted upon by the proposed development.

8.4.4 Principle 7 - aesthetics:

- As a result of the abovementioned amenity and safety issues, it is considered that the proposal will have a negative impact on the aesthetic quality and character of the surrounding neighbourhood.

8.5 The applicant's Clause 4.6 variation request is not supported

8.5.1 Blacktown Local Environmental Plan prescribes a 9m maximum building height for the site. Whilst the amended proposal has lowered the building by introducing basement car parking, the majority of the third floor remains above the height limit as indicated in orange below. Council only accepts rooftop plant and lift overruns to be above the height limit, but in this case all the rooms on the third floor that are associated with the school's operation are above the height limit. The building is still 2.6 m above the height limit according to the applicant's Clause 4.6 variation request.



- 8.5.2 It is unclear how the lift will operate in the absence of a lift overrun on the rooftop. There is no lift mechanism indicated on the plans and this is usually located on the roof. The height exceedance would be more significant if this plant was included on the plans.
- 8.5.3 In addition, as referred at 8.3.1 above, the building will need to be raised to address the flooding affectation of the site. As a result, the overall height of the building, and therefore the actual exceedance, remains unknown until the floor levels satisfactorily address flooding. This also impacts other elements of our assessment, including the shadow impacts of this proposal on the existing dwellings to the south.
- 8.5.4 The highest point of the building faces towards the nearest dwellings to the south of the site. The height of the building should instead be reduced at its southern extent to transition the built form to be similar to a 2-storey development. The northern extent of the building that would remain above the height limit would then be offset by the southern portion that would be below the height limit.
- 8.5.5 Based on the above, the applicant's clause 4.6 variation request cannot be supported.

8.6 Insufficient information has been provided to enable a proper assessment of the proposed development

- 8.7 Insufficient information has been provided to enable Council officers to undertake a proper assessment of the proposal and its potential environmental impacts in relation to environmental health, traffic, engineering, drainage, biodiversity and open space matters. Refer to Section 10, Internal referrals for details.

8.8 Demolition of the Stage 1 car park is not supported prior to the Stage 2 carpark being operational

- 8.8.1 It is proposed to demolish the Stage 1 administration building (existing house) and car park when Stage 2 of the school commences. The cars that would normally park in the Stage 1 car park will then be displaced. These displaced cars will mean that all staff and visitors will have to rely solely on the existing on-street parking along Beames Avenue during the entire construction of the Stage 2 car park which is not supported.
- 8.8.2 The Stage 1 car park will therefore have to remain in place until the Stage 2 building is fully operational, possibly even during stage 3's car parking addition is completed too if access to Stage 2 car park is in any way impacted by the work.

9 External referrals

- 9.1 The development application was referred to the following external authorities for comment:

| Authority | Comments |
|-------------------------|---|
| Transport for NSW | Insufficient information provided |
| Sydney Trains | Approved with conditions |
| Endeavour Energy | Approved with conditions |
| Department of Education | Referral rejected as concurrence is not required in this instance, but comments were provided |

10 Internal referrals

10.1 The development application was referred to the following internal sections of Council for comment:

| Section | Comments |
|------------------------|--|
| Environmental Health | Acceptable, subject to conditions |
| Open Space Maintenance | <p>Further clarification is required as the amended Tree impact statement has not answered the questions raised in the 17 February 2023 request for information.</p> <p>The Arboricultural impact assessment states that trees 1 - 8 and 75 can be retained but the Stage 1 architectural plans show that these trees have to be removed.</p> <p>The Arboricultural impact assessment states that Tree 74 has a minor encroachment of less than 10% but it cannot be retained. No explanation has been provided for this.</p> <p>The Tree protection plan located on page 62 of the amended Tree impact statement requires the Tree ID numbers to be listed in line with the recommendations.</p> <p>The specifications for the required on-site tree protection signage have not been provided.</p> |
| Biodiversity | <p>Inconsistencies remain between the reports on which trees are to be retained and which are to be removed. In terms of tree removal there will be 7 to be removed according to the Landscape Plan, 4 to be removed according to the Biodiversity report, 12 in the Statement of Environmental Effects and only 5 to be removed according to the Arborist report and 14 to be removed according to the architectural plans.</p> |
| Engineering | <p>The nature strips of Beames Avenue and Francis Road are an important part of the development and have not been detailed on the plans i.e. levels, street trees, services, footpath.</p> <p>The driveways at the road boundary must be 4% above the top of kerb to ensure stormwater from the gutter does not enter the site. We require driveway long-sections from the roadway into the carpark that show it can comply with AS2890 and with Council's standard drawing/notes A(BS)103m. The plans are to stipulate gutter invert levels, top of kerb reduced levels, boundary reduced levels and grades.</p> <p>The driveway widths, sections and grades are not as per AS2890. The sweep path plans for the parking areas do not demonstrate 2-</p> |

| Section | Comments |
|----------|--|
| | <p>way passing movement and do not allow forward entry and exit in one journey without using a parking spot as a turning area at the end of the carpark.</p> <p>The width of the driveway of the above-ground carpark does not allow 2-way movement of vehicles and the carpark and does not allow forward entry and exit in one journey.</p> <p>The proposed location of the raised pedestrian crossing may cause traffic congestion by vehicles waiting to enter the carpark</p> |
| Drainage | <p>The flood study is inconclusive on flood levels and flood risk category and therefore needs to be amended due to the following:</p> <ul style="list-style-type: none"> • The flood study does not correctly reflect the proposed building layout. • The temporary demountable classes are located in the flood affected areas of the site but are not considered in the analysis. <p>The catchment impervious percentages are incorrect. The upstream catchment impervious areas cannot be modelled less than 80%.</p> <p>It is not clear from the current flood modelling if the flood risk category will be H2 or higher. If so these areas need to be designed with no access to children or have special designs to reduce the flood risk to H1 (H being a flood hazard indicator where the higher the associated number the higher the flood hazard)</p> <p>The proposed buildings do not comply within minimum floor levels due to flooding plus freeboard.</p> <p>It is not clear how the basement would be protected from filling with flood waters.</p> <p>The design fails to demonstrate vehicle access to allow for the maintenance of the gross pollutant trap proposed. This has not been provided.</p> |

11 Conclusion

- 11.1 The proposed development has been assessed against all relevant matters and is not considered to be satisfactory. It is considered that the likely impacts of the development have not been satisfactorily addressed and that the proposal is not in the public interest. The site is not considered suitable for the proposed development.

12 Disclosure of political donations and gifts

- 12.1 Under Section 10.4 of the Environmental Planning and Assessment Act 1979, a disclosure statement must be lodged in certain circumstances in relation to any planning application, i.e. a development application, an application to modify a consent and an application to make an environmental planning instrument or development control plan.
- 12.2 A disclosure statement of a reportable political donation or gift must accompany a planning application or submission (including a submission either objecting to or supporting the proposed development) if the donation or gift is made within 2 years before the application or submission is made. If the donation or gift is made after the lodgement of the application, a disclosure statement must be sent to Council within 7 days after the donation or gift is made. The provision also applies to an associate of a submitter.
- 12.3 A disclosure statement may be made available for viewing upon a written request to Council in line with Section 12 of the Local Government Act 1993.

12.4 Disclosures:

- | | | |
|---|---|---------------------------------------|
| <ul style="list-style-type: none"> • Political donations | <p>Has a Disclosure statement been received in relation to this application?</p> <p>If yes, provide Disclosure statement register reference</p> | <p>Yes</p> <p>Ref: D22/552831</p> |
| <ul style="list-style-type: none"> • Gifts | <p>Have staff received a 'gift', that needs to be disclosed, from anyone involved with this application?</p> | <p>No</p> |

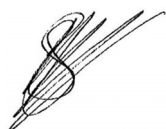
13 Recommendation

- 1 Reject the Clause 4.6 variation request to exceed the maximum building height because the full extent of the height exceedance is unknown due to the proposed finished floor levels for the development being unknown and the requirement for the building to be raised to address flood risks.
- 2 Refuse Development Application SPP-22-00008 based on the following grounds:
 - a The proposed building exceeds the maximum height plane for the site set out in the Height of Building Map in Blacktown Local Environmental Plan 2015. The finished floor level of the site is still unknown since the building may have to be raised to address flooding impacts, therefore the actual extent of the maximum height exceedance is also unknown. The application is therefore considered to be inconsistent with the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979.
 - b Inadequate information has been provided to complete an assessment of the development application in terms of traffic, engineering, drainage, planning and open space maintenance. Given that inadequate information has been submitted, approval of the application is not considered to be in the public interest under Section 4.15(i)(e) of the Environmental Planning & Assessment Act, 1979. The application can also not be thoroughly assessed to consider it to be consistent with the provisions of Section 4.15(1)(b) and (c) of the Environmental Planning and Assessment Act 1979.
 - c The development application is contrary to Clause 36 of the Environmental Planning and Assessment Regulation 2021 as the applicant is required to provide all the necessary and requested information to allow Council to properly assess the application. Inadequate information has been received to complete an assessment of the proposal in terms of traffic, engineering, drainage, planning and open space maintenance. Given that inadequate information has been received, approval of the application is not considered to be in the public interest under Section 4.15(i)(e) of the Environmental Planning & Assessment Act, 1979. The application can also not be thoroughly assessed to consider it to be consistent with the provisions of Section 4.15(1)(b) and (c) of the Environmental Planning and Assessment Act 1979.
 - d The site is not suitable for this proposed school due to the height limit, the flooding affecting the site, the lack of drainage and its location in a low density residential area. The application is therefore considered to be inconsistent with the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.
 - e Due to the number of valid concerns raised by the public during notification that are similar to our own concerns with the proposal, the application is considered to not be in the public interest under the provisions of Section 4.16(1)(e) of the Environmental Planning and Assessment Act 1979.

3 Council officers notify the applicant and submitters of the Panel's decision.

14 Declaration and endorsement

We, the undersigned, declare, to the best of our knowledge that we have no interest, pecuniary or otherwise, in this development application or persons associated with it; and we have provided an impartial assessment.



Jared Spies
Senior Development Assessment Planner



Judith Portelli
Manager Development Assessment



Peter Conroy
Director City Planning and Development