



30 April 2021

Ms Barbara Watkins  
Chief Executive  
Sydney Catholic Schools  
-via email-  
barbara.watkins@syd.catholic.edu.au

Dear Ms Watkins

**Marist Catholic College North Shore Redevelopment (SSD-10473)  
Request for Additional Information**

I refer to the state significant development application for the redevelopment of Marist Catholic College North Shore (SSD-10473). In addition to the issues raised in the letter dated 29 March 2021, the Department of Planning, Industry and Environment (Department) has identified a determinative issue with the proposed child care centre as detailed below.

In accordance with Part 3 of State Environmental Planning Policy (Education and Child Care Facilities) 2017 ("Education SEPP") and the Child Care Planning Guideline 2017 ("Guidelines"), 630sqm of unencumbered outdoor space is required to be provided for the child care centre based on 90 children placements.

Section 4.9 of the Guidelines provides design guidance for outdoor space. While the design guidance permits some outdoor space to be provided in the form of a balcony (subject to design criteria), it does permit indoor areas of a building to be counted as unencumbered outdoor space. Unencumbered outdoor space must be open to the elements and cannot be located inside a building.

In accordance with Clause 22 of the Education SEPP, proposed child care centres which do not comply with the unencumbered outdoor space requirements must be referred to the Regulatory Authority (Department of Education) for concurrence. The consent authority must not grant consent without the concurrence of Department of Education (DoE) for child care centres which do not provide the requisite unencumbered outdoor space.

Simulated outdoor spaces are located within buildings and are permitted in exceptional circumstances where unencumbered outdoor space is not possible due to site constraints. In accordance with Clause 22 of the Education SEPP, provision of simulated outdoor space can only be approved after concurrence is granted by DoE. The Department notes that according to DoE's concurrence checklist, DoE only grants concurrence for simulated outdoor space in lieu of unencumbered outdoor space in exceptional circumstances.

The proposed child care centre is located on level 1 of the Miller Street Building with approximately 674sqm of simulated outdoor space within its internal footprint. The space marked as "outdoor" on the submitted architectural drawings is located entirely within the building. The space is enclosed and is not open to the elements. Throughout the Environmental Impact Statement (EIS) the subject space is referred to as simulated outdoor space. Therefore, in accordance with Clause 22 of the Education SEPP, the proposal requires concurrence from DoE.

In response to this issue originally raised by the Department on 21 April 2021, an email was received from Ethos Urban on 26 April 2021 stating that the design of the western façade of the Miller Street building has not been fully developed. A section sketch was provided showing proposed design amendments including the provision of a vergola over a small portion of the space and fixed screens at the balustrade line. These proposed amendments would not result in 630 sqm of unencumbered outdoor space being provided as the subject area would still be predominantly enclosed. Consequently, the Department will not accept these proposed amendments as satisfying the concerns raised above.

Therefore, in order to progress the assessment of the application, the Department recommends one of the following courses of action:

1. The Department to refer the application to DoE for concurrence. If concurrence is refused, then options 2 or 3 below will be required. Please advise the Department if you choose this option by COB 5 May 2021. The Department will then refer to the application to DoE.
2. Amend the proposal so that unencumbered open space can be provided. To achieve this, it is likely that the child care centre will need to be relocated to a different part of the site or building such as the ground floor level. A revised Noise Impact Assessment will be required to be prepared to assess any additional noise impacts from the relocated child care centre and provision of outdoor space. The application may be amended as part of the Response to Submissions (RtS) under this option; or
3. Remove the child care centre from the proposal and use level 1 as part of the school or a use ancillary to the school. Relevant details of the proposed alternate use of level 1 of the building are required to be provided including any additional impacts and permissibility (if relevant). The application may be amended as part of the RtS under this option.

The assessment of the child care centre cannot progress until this matter is resolved. You are requested to provide the information to the Department in accordance with the timeframes detailed above. If you are unable to provide the requested information within this timeframe, you are requested to provide, and commit to, a timeframe detailing the provision of this information.

If you have any questions, please contact Tahlia Alexander, who can be contacted on 02 9995 6022 or [Tahlia.Alexander@planning.nsw.gov.au](mailto:Tahlia.Alexander@planning.nsw.gov.au).

Yours sincerely,



Karen Harragon  
**Director**  
**Social and Infrastructure Assessments**