

Notice of decision

Section 2.22 and clause 20 of Schedule 1 of the *Environmental Planning and Assessment Act 1979*

Application type	State significant development
Application number and project name	SSD-10473 Marist Catholic College North Shore Redevelopment
Applicant	Sydney Catholic Schools
Consent Authority	Minister for Planning

Decision

The Executive Director, Infrastructure Assessments, under delegation from the Minister for Planning has, under section 4.38 of the *Environmental Planning and Assessment Act 1979* (**the Act**) granted consent to the development application subject to conditions.

A copy of the development consent and conditions is available [here](#).

A copy of the Department of Planning and Environment's Assessment Report is available [here](#).

Date of decision

23/9/2022

Reasons for decision

The following matters were taken into consideration in making this decision:

- the relevant matters listed in section 4.15 of the Act and the additional matters listed in the statutory context section of the Department's Assessment Report;
- the prescribed matters under the *Environmental Planning and Assessment Regulation 2000*;
- the *Biodiversity Conservation Act 2016*;
- the objects of the Act;
- all information submitted to the Department during the assessment of the development application;
- the findings and recommendations in the Department's Assessment Report; and
- the views of the community about the project (see **Attachment 1**).

The findings and recommendations set out in the Department's Assessment Report were accepted and adopted as the reasons for making this decision.

The key reasons for granting consent to the development application are as follows:

- *Benefits* - the project would provide a range of benefits for the region and the State as a whole, including a total capital investment of \$30,647,789, 380 construction jobs and 61 operational jobs;
- *Consistent with the NSW Government Policy* - the project is permissible with development consent, and is consistent with NSW Government policies including the Greater Sydney Regional Plan – A Metropolis of Three Cities, Northern District Plan, Infrastructure NSW's State Infrastructure Strategy 2018 and Transport for NSW's Future Transport Strategy 2056;
- *Impacts can be managed* - the impacts on the community and the environment can be appropriately minimised, managed or offset to an acceptable level, in accordance with applicable NSW Government policies and standards. The consent authority has imposed conditions relating to operational traffic impacts, heritage, operational noise impact, tree protection and replacement, management of construction impacts including traffic, parking and noise;
- *Community views considered* - the issues raised by the community during consultation and in submissions have been considered and adequately addressed through changes to the project and the recommended conditions of consent; and
- *Public interest* - weighing all relevant considerations, the project is in the public interest.

Attachment 1 – Consideration of Community Views

The Environmental Impact Statement (EIS) for the proposal was publicly exhibited from 23 February 2021 until 22 March 2021. 28 public submissions were received including 18 objections (including one from a special interest group), nine comments and one in support of the proposal. Additionally North Sydney Council (Council) submitted an objection outside of the exhibition period.

In response to the submissions, the Applicant submitted an amended proposal and a response to submissions (RtS). The RtS was publicly exhibited between 16 November 2021 and 13 December 2021 and four public submissions were received, all in objection. Council provided comments on the RtS.

In response to the RtS exhibition, the Applicant submitted a supplementary RtS (SRtS) which was made public available. The Department received no further correspondence from the community. Council raised no further concerns.

The key issues raised by the community and Council (including in submissions) considered in the Department's Assessment Report and by the decision maker include traffic and parking, built form and heritage, operational and construction noise, tree removal, replacement and landscaping. Other issues are addressed in detail in the Department's Assessment Report.

<i>Issue</i>	<i>Consideration</i>
<i>Traffic and parking</i> <ul style="list-style-type: none">• The proposal would result in additional adverse traffic congestion and impact on intersections.• The Green Travel Plan (GTP) targets would not address traffic congestion and parking pressure.• The proposal would exacerbate traffic problems associated with the pick-up/drop-off (PUDO) operation.• Too much / not enough car parking is provided on the site and insufficient parking is provided for the auditorium.• The development results in the removal of seven existing car parking spaces on Carlow Street.• The traffic assessment has based modelling on a future connection from Ridge Street to Western Harbour Tunnel. However, this connection is not part of the tunnel project.	<i>Assessment</i> <ul style="list-style-type: none">• The Applicant has amended the traffic management measures and the GTP, in response to concerns raised by submitters.• The Applicant confirmed that the Ridge Street link is based on Transport for NSW (TfNSW) strategic models and future infrastructure.• The Department accepts the Applicant's conclusion that the traffic generation due to the proposal would have an impact on the road network, however, the overall impact would be minor in the context of the existing and future predicted traffic network operation.• The Department is satisfied the implementation of the GTP would encourage sustainable modes of transport, subject to the preparation of the final GTP in consultation with Transport for NSW (TfNSW) and ongoing annual monitoring and review.• Based on comments from Council, Government agencies and an independent traffic consultant, the Department concludes the PUDO facilities are acceptable subject to design mitigation measures, additional clarification of likely demand and potential vehicle overflow and recommended conditions regarding the operations to align with the staged increase of students.• The Department is also satisfied sufficient car parking is provided to cater for the development and the use of the auditorium.• While the car parking would exceed Council's requirements, it would be marginally less than what exists within the site and would be managed via an Operational Transport and Access Management Plan (OTAMP).• The preparation of an Out of Hours Event Management Plan, would manage any large scale events proposed within the site including the use of the auditorium.• The Department considers the removal of seven Carlow Street parking spaces is temporary and needed to establish the on-street construction zone. These would be reinstated following completion of the development. As such, these would be compensated by the retention of the Carlow Street parking spaces that were previously used by the Jacaranda Cottage.

	<p><i>Conditions</i></p> <p>Conditions include:</p> <ul style="list-style-type: none"> • preparation and implementation of a GTP, including monitoring and review in consultation with Transport for NSW (TfNSW) and Council. • car parking and PUDO facilities provided prior to the first increase in school population. • a review of the operation of the PUDO facilities one year after the commencement of operation. • preparation and implementation of an OTAMP and Out-of-Hours Event Management Plan for school and community use.
<p><i>Pedestrian infrastructure</i></p> <ul style="list-style-type: none"> • The proposal would place additional pressure on Miller / Carlow Street footpaths and surrounding pedestrian crossings. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • In response to the concerns raised, the Applicant proposed a widened the footpath on the western side of Miller Street to address an existing pinch-point. • The Department supports the Applicant's approach subject to a Road Safety Audit. <p><i>Conditions</i></p> <p>Conditions include:</p> <ul style="list-style-type: none"> • delivery of all pedestrian infrastructure. • undertaking of a Road Safety Audit.
<p><i>Built form</i></p> <ul style="list-style-type: none"> • The height, scale and visual impact of the development is inappropriate and inconsistent with the North Sydney Local Environmental Plan 2013 (NSLEP) maximum height of buildings control. • The development would have an adverse impact on adjoining / nearby heritage items. • The Carlow Street building should include a setback on the upper floors. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • In response to the concerns raised in the submissions, the Applicant reduced the height of the Miller Street building by 3.6 metres, increased building articulation / modulation and increased the top floor setback of the Carlow Street building. • The Department considers the height and scale of the proposed development is acceptable given the use of the site and the building functions. Strict compliance with the NSLEP height of building control is unnecessary and unreasonable given the circumstances of the development. • The Department notes the proposal would not have an adverse heritage impact subject to conditions relating to protection of items during construction. • The Department is satisfied, that the proposal would not have an adverse impact on the heritage significance or setting of adjoining or nearby heritage items. <p><i>Conditions</i></p> <p>Conditions include:</p> <ul style="list-style-type: none"> • photographic archival recording, dilapidation report, vibration monitoring, appointment of a heritage architect, removal of heritage fabric, Accessibility and Building Code of Australia compliance and design modification.
<p><i>Trees</i></p> <ul style="list-style-type: none"> • The proposal results in the removal of too many trees and does not include sufficient replacement trees. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The Applicant has agreed to transplant (rather than remove) two existing trees, has proposed five new street trees and increased the predicted tree canopy cover to 26% of the site. • The Department considers the proposed removal of 41 existing

<ul style="list-style-type: none"> • The proposal should include a tree bond to protect tree roof zones. • Three <i>Phoenix canariensis</i> trees which were proposed for removal should be transplanted onsite. 	<p>trees is unavoidable due to their location. The proposed replacement trees along with associated works is assessed as satisfactory.</p> <ul style="list-style-type: none"> • The Department notes that while one <i>Phoenix canariensis</i> tree had been removed as part of a separate application, it is proposed to be transplanted elsewhere on the site. <p><i>Conditions</i></p> <p>Conditions include;</p> <ul style="list-style-type: none"> • tree removal and replacement, as proposed. • advanced tree stock used during planting. • tree protection measures for retained trees during construction. • a tree bond to be paid to Council and utilities and services not to adversely impact on tree roof zones.
<p><i>Amenity impacts</i></p> <ul style="list-style-type: none"> • The proposal would overshadow and overlook neighbouring residential properties (not owned by the school). 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The Application includes shadow diagrams that confirm the proposal would result in additional overshadowing of rear gardens of nearby residential properties on Carlow Street (not owned by the school) by an additional one hour in mid-winter. The Department is satisfied the additional overshadowing is minor and acceptable. • In response to the concerns raised about overlooking, the Applicant amended the western elevation of the Carlow Street building to include screening plants, removed the Level 2 outdoor terrace and set back the rooftop play space by 3m. The Department is satisfied the proposed mitigation measures ensure the proposal would not result in a loss of privacy to adjoining properties.
<p><i>Noise</i></p> <ul style="list-style-type: none"> • The proposal would result in operational noise impacts to adjoining residential properties from play spaces, school buildings and the auditorium. • Construction would result in adverse noise impacts and the construction hours should be limited on weekends. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The Applicant's assessment concludes that the use of the play spaces, school buildings and auditorium would all comply with the relevant noise criteria. The Applicant has agreed to install absorptive materials in the Carlow Street building undercroft and restrict use of the auditorium to 10pm. • The Department concludes the proposal would not unreasonably impact the acoustic amenity of surrounding occupants. • The Department considers, subject to the implementation of appropriate noise mitigation measures and restriction of construction hours, construction noise can be adequately managed / mitigated. <p><i>Conditions</i></p> <p>Conditions include:</p> <ul style="list-style-type: none"> • preparation and implementation of an Out-of-Hours Event Management Plan. • inclusion of construction materials and design to ensure the recommendations of the Noise Report are adhered to. • preparation of a Construction Noise and Vibration Management Plan to manage the impacts of construction works and including all recommended mitigation measures. • construction hours to be in accordance with the Interim Construction Noise Guideline 2009 standard construction hours. • short-term noise monitoring to verify operational noise does not

	<p>exceed the noise criteria.</p> <ul style="list-style-type: none"> the school use, community use and loading dock to be in accordance with the hours of operation. installation of the absorptive materials within the Carlow Street building undercroft prior to the first use of the space.
<p><i>Loss of Play space</i></p> <ul style="list-style-type: none"> The proposal results in a reduction in outdoor ground level play space. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The Applicant has confirmed that the proposal would result in an increase of play space by 2074m² (from 3961m² to 6035m²). The Department is satisfied the proposal would result in an increase in play space within the site. <p><i>Conditions</i></p> <ul style="list-style-type: none"> No specific conditions are included in this regard.
<p><i>Public hearing</i></p> <ul style="list-style-type: none"> A public hearing should be held in relation to the application. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The application does not trigger the need for a public hearing under the Act. The Minister has not recommended a hearing be held, and the application is not referred to the Independent Planning Commission.