



# Mulgoa Rise Public School

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State Significant Development Assessment  
SSD 11070211

March 2022



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Title: New Primary School at Mulgoa Rise

*Cover image: Indicative plan of Mulgoa Rise (Source: Applicant's RTS)*

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# Glossary

Abbreviation	Definition
<b>AHD</b>	Australian Height Datum
<b>BCA</b>	Building Code of Australia
<b>CASA</b>	Civil Aviation Safety Authority
<b>CIV</b>	Capital Investment Value
<b>CPP</b>	Community Participation Plan
<b>Council</b>	Penrith City Council
<b>Department</b>	Department of Planning and Environment (DPE)
<b>EESG</b>	Environment, Energy and Science Group, DPE
<b>EFSG</b>	Education Facilities Standards and Guidelines
<b>EIS</b>	Environmental Impact Statement
<b>EPA</b>	Environment Protection Authority
<b>EP&amp;A Act</b>	<i>Environmental Planning and Assessment Act 1979</i>
<b>EP&amp;A Regulation</b>	Environmental Planning and Assessment Regulation 2000
<b>EPI</b>	Environmental Planning Instrument
<b>EPL</b>	Environment Protection Licence
<b>ESD</b>	Ecologically Sustainable Development
<b>Heritage</b>	Heritage NSW, Department of Premier and Cabinet
<b>LEP</b>	Local Environmental Plan
<b>Minister</b>	Minister for Planning
<b>SEARs</b>	Planning Secretary's Environmental Assessment Requirements
<b>Planning Secretary</b>	Secretary of the Department of Planning and Environment
<b>SEPP</b>	State Environmental Planning Policy
<b>SRD SEPP</b>	State Environmental Planning Policy (State and Regional Development) 2011
<b>SSD</b>	State Significant Development
<b>TfNSW</b>	Transport for NSW

# Executive Summary

This report provides an assessment of a State significant development (SSD) application for the Mulgoa Rise Public School (SSD 11070211) located at 1-23 Forestwood Drive, Glenmore Park. The application has been lodged by the NSW Department of Education (the Applicant), and the site is located within the Penrith local government area (LGA).

## Assessment summary and conclusions

The Department has considered the merits of the proposal in accordance with relevant matters under section 4.15(1), the objects of the Environmental Planning and Assessment Act 1979, the principles of Ecologically Sustainable Development, and issues raised in all submissions as well as the Applicant's response to these.

The key issues identified with the proposal include flooding, traffic and transport, and built form and urban design. The Department is satisfied that these issues have been adequately addressed in the Applicant's Environmental Impact Statement (EIS), Response to Submissions (RtS) and through additional information provided during the assessment process. Minor outstanding issues can be addressed through the Department's recommended conditions of consent.

The Department concludes the proposal is in the public interest and recommends that the application be approved subject to conditions.

## The proposal

The proposal seeks approval for the construction and operation of a new primary school to accommodate up to 414 students (Kindergarten to Year 6) and 27 staff. The proposal includes the construction and operation of three two-storey buildings to accommodate 18 learning spaces and 2 support classes, a library, staff facilities and administrative areas, one single storey building including a school hall with canteen and OOSH facilities and associated works including COLAs, outdoor play spaces, hard and soft landscaping, drop off and pick up areas and staff car parking.

The proposal has a Capital Investment Value (CIV) of approximately \$34 million and would generate 27 operational jobs and 144 construction jobs.

## The site

The site is located at 1-23 Forestwood Drive, Glenmore Park, in the Penrith Local Government Area, approximately 6km south of the Penrith CBD and 54.6km west of the Sydney CBD. The site is a rectangular 30,000m<sup>2</sup> grassed area bound by Deerubbin Drive to the north, Darug Avenue to the west, and Forestwood Drive to the south.

## Statutory Context

The proposal is SSD under section 4.36 of the EP&A Act as the development is for the purpose of a new school under clause 15 of Schedule 1 of the State Environmental Planning Policy (State and Regional Development) 2011, as it is development for the purpose of a new school with a CIV of more than \$20 million. Therefore, the Minister for Planning is the consent authority.

## Engagement

The application was publicly exhibited between Friday 3 September 2021 and Thursday 30 September 2021. The Department of Planning and Environment (the Department) received a total of 12 submissions, including ten from public authorities and two from the public. An additional five submissions from public authorities were received in response to the Applicant's Response to Submissions (RtS).

The key issues raised in the submissions include flooding, traffic and transport, urban design and built form, and landscaping.

On 18 November 2021, the Applicant submitted an RtS which included updated technical reports and drawings, additional design work resulting from work undertaken following the Connecting with Country framework and outlined architectural and landscape design changes.

The RtS was referred to public authorities and a submission from Council was received and four public authorities provided advice in response to the Applicant's RtS. All public authorities were satisfied that the RtS had addressed previously raised issues, except EESG who raised concerns with the proposed planting schedule (RtS proposed using non-native plants) and Council who was concerned about the proposed at-grade pedestrian crossings.

The Department is satisfied that the concerns raised have been addressed through the Applicant's RtS, further information provided during the assessment process, and the Department's recommended conditions.

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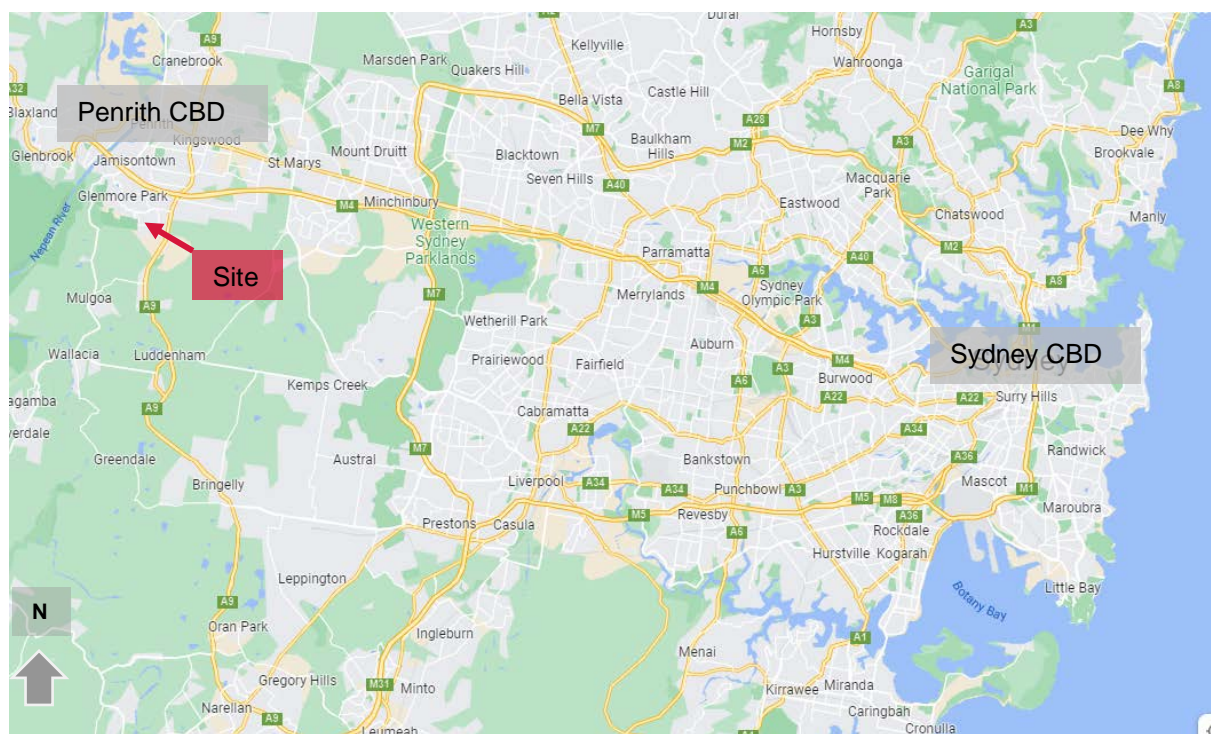
# 1 Introduction

This report provides an assessment of a State significant development (SSD) application for the Mulgoa Rise Public School located at 1-23 Forestwood Drive, Glenmore Park (SSD 11070211).

The Department of Education (the Applicant) seeks approval for the construction and operation of a new primary school on a vacant site to cater for 414 students in Kindergarten to Year 6. Separate planning approval would be sought for the southern portion of the site which would enable the school to accommodate 1,000 students.

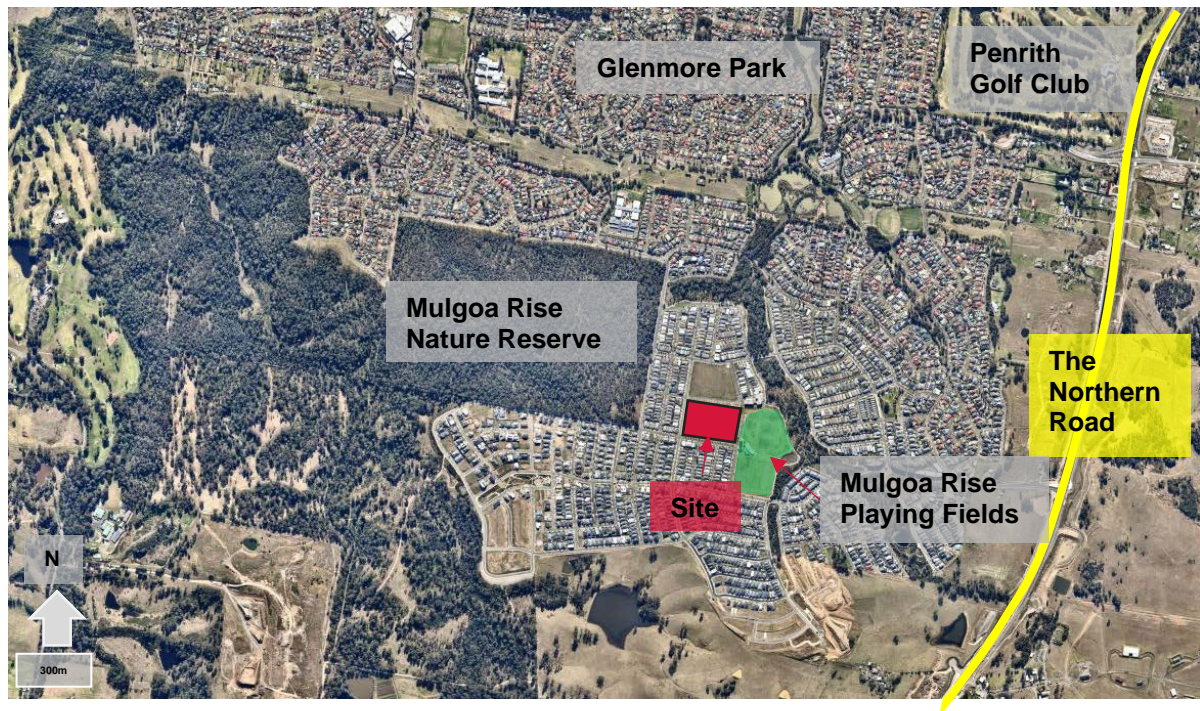
## 1.1 Site description

The site is located at 1-23 Forestwood Drive, Glenmore Park, in the Penrith Local Government Area, approximately 6 kilometres (km) south of the Penrith CBD and 54.6km west of the Sydney CBD. The site's location in the regional and local context is shown in **Figure 1** and **Figure 2**



**Figure 1 | Regional context map (Base source: Nearmap 2022)**





**Figure 2 | Local context map** (Base source: Nearmap 2022)

The site is legally described as Lot 1663 DP 1166869, has an area of 30,010m<sup>2</sup> and is rectangular with frontages to three streets (**Figure 2**), including:

- Deerubbin Drive to the north with a length of approximately 196m
- Darug Avenue to the west with a length of approximately 135m
- Forestwood Drive to the south with a length of approximately 210m

The site is a former shale and clay quarry that was remediated in the early 2000s and is now vacant and cleared.

## 1.2 Existing Development and Use

The site is currently vacant and vegetated with exotic grasses, as seen in **Figure 3**. The site has a slight fall of approximately 6 metres from the south-western corner to the north-eastern corner of the site. No formal vehicle access is currently provided given the site is undeveloped, however, vehicle access would be possible from Deerubbin Drive, Darug Avenue and Forestwood Drive. Pedestrian access is available from all surrounding streets.





**Figure 3 |** Aerial view of the subject site (Source: Nearmap 2021)



**Figure 4 |** Surrounding development (Source: Applicant's Architectural Plans – Appendix D of the EIS)

### 1.3 Surrounding development

As shown in **Figure 3** and **Figure 4**, the site is located in a residential area with single and two-storey detached dwelling houses to the west and south of the site. In the past decade, the surrounding area has transitioned from semi-rural land use to a residential subdivision, with future commercial development. To the north is a vacant block of land approved for the construction of a four-storey mixed-use precinct. To the east is the Mulgoa Rise Fields playing fields and associated car parking.

## 2 Project

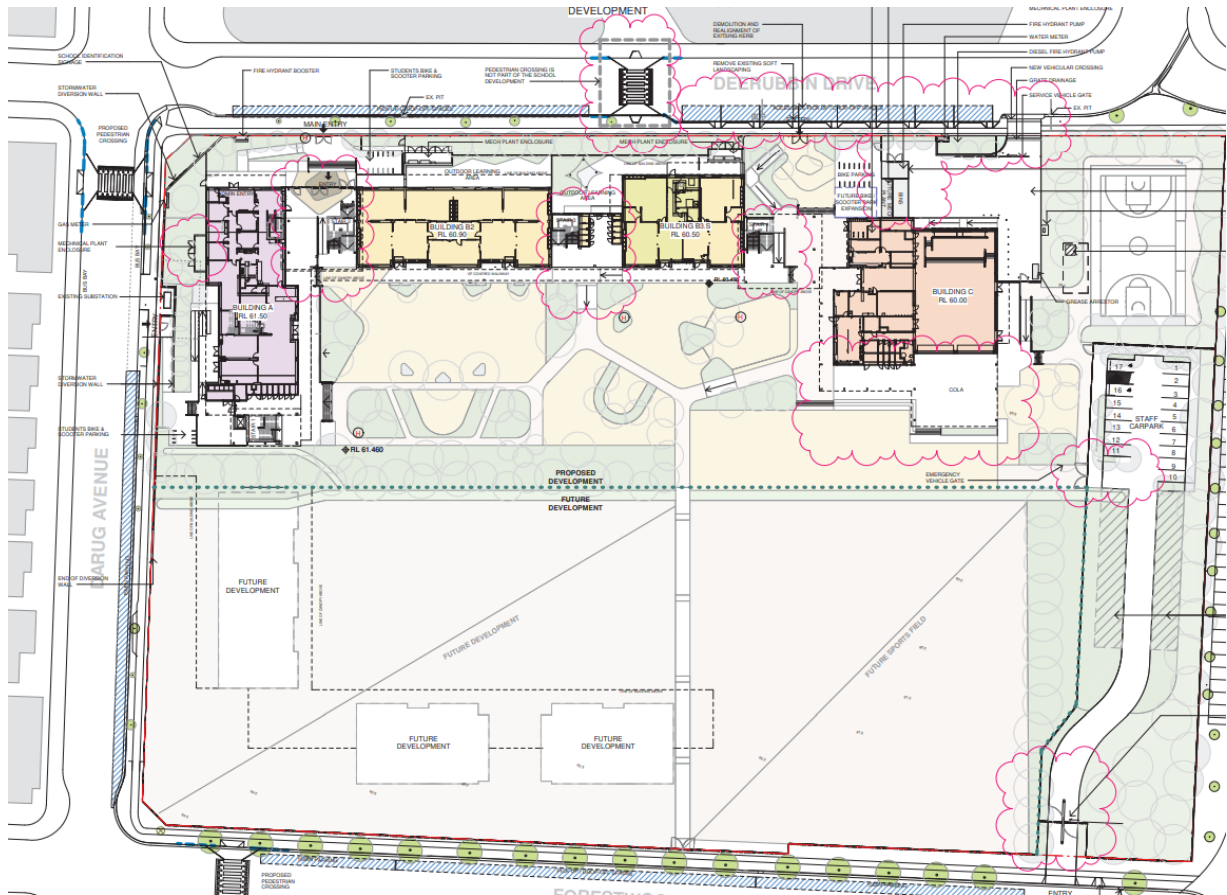
The key components and features of the proposal as detailed in the Environmental Impact Statement (EIS), and revised in the Response to Submissions (RtS) and additional information are provided in **Table 1** and are shown in **Figures 5 to 11**.

**Table 1 | Main components of the project**

Aspect	Description
<b>Project summary</b>	<p>Construction and operation of a single storey and three two-storey buildings to accommodate 18 learning spaces and 2 support classes, a school hall with canteen and OOSH facilities, library, staff facilities and administrative areas, and associated works including COLAs, outdoor play spaces, hard and soft landscaping, drop off and pick up areas and staff car parking.</p> <p>The learning spaces and support class spaces have been designed to accommodate 414 students from Kindergarten to Year 6. Whilst the school hall, library, staff facilities, and administrative areas have a capacity for the proposed future expansion to 1,000 students (subject to a separate planning approval process).</p>
<b>Built form</b>	<p>Construction including:</p> <ul style="list-style-type: none"> <li>• single storey hall/out of school hours building with associated covered outdoor learning area (COLA).</li> <li>• 3 x two-storey buildings (max height of 10.4m) comprising learning spaces, library, administration/staff areas and amenities.</li> <li>• perimeter fencing around the site and the future stage of development to the south.</li> <li>• secondary fencing in some entryways and verges.</li> </ul>
<b>Student capacity</b>	414 students
<b>Site area</b>	30,010m <sup>2</sup>
<b>Heights</b>	<p>Building height - 10.4m</p> <p>Canopy height - 11.1m</p>
<b>Uses and Operation</b>	<ul style="list-style-type: none"> <li>• Educational establishment (primary school for kindergarten to year six)</li> <li>• Out of School Hours Care</li> <li>• Opportunity for the use of the site and hall facilities by the community.</li> </ul>
<b>Access and parking</b>	<ul style="list-style-type: none"> <li>• Primary pedestrian access from Deerubbin Drive near Darug Avenue on the north-west corner of the site.</li> <li>• Secondary pedestrian access from Deerubbin Drive near Glenhome Drive to provide access to the school hall.</li> <li>• Pedestrian access from Darug Avenue to provide access to the public bus stop.</li> <li>• Vehicle access to the staff car park from Forestwood Drive.</li> </ul>

Aspect	Description
	<ul style="list-style-type: none"> <li>• On-site staff car park for 17 spaces</li> <li>• 64 bike and 80 scooter parking spaces for students</li> <li>• 6 staff bicycle parking spaces</li> </ul>
<b>Public domain and landscaping</b>	<ul style="list-style-type: none"> <li>• 10 trees removed</li> <li>• Site landscaping including 195 new trees, various shrubs groundcovers and grasses</li> <li>• provision of a basketball court, softfall and mulched play areas, and a covered outdoor learning area</li> </ul>
<b>Hours of operation</b>	<p>School: 8:00am to 4:00pm</p> <p>Outside School Hours Care: 7am to 8am and 4:00pm to 6:00pm</p> <p>Vacation Care: 7am to 6pm</p> <p>After Hours shared use of the school hall and/or library – 6:30pm to 10pm.</p>
<b>Signage</b>	<p>Three signs, including:</p> <ul style="list-style-type: none"> <li>• a sign on the fencing structure at the corner of Deerubbin Drive and Darug Avenue</li> <li>• a 4.3m high digital pylon sign located at the main pedestrian entry on Deerubbin Drive</li> <li>• a 7.4m wide sign on the northern wall of the Hall facing Deerubbin Drive.</li> </ul>
<b>Jobs</b>	<p>Construction: 144 jobs</p> <p>Operational: 27 jobs</p>
<b>CIV</b>	\$34,987,675





**Figure 5 | Site layout (Source: Applicant's RtS)**

## 2.1 Physical layout and design

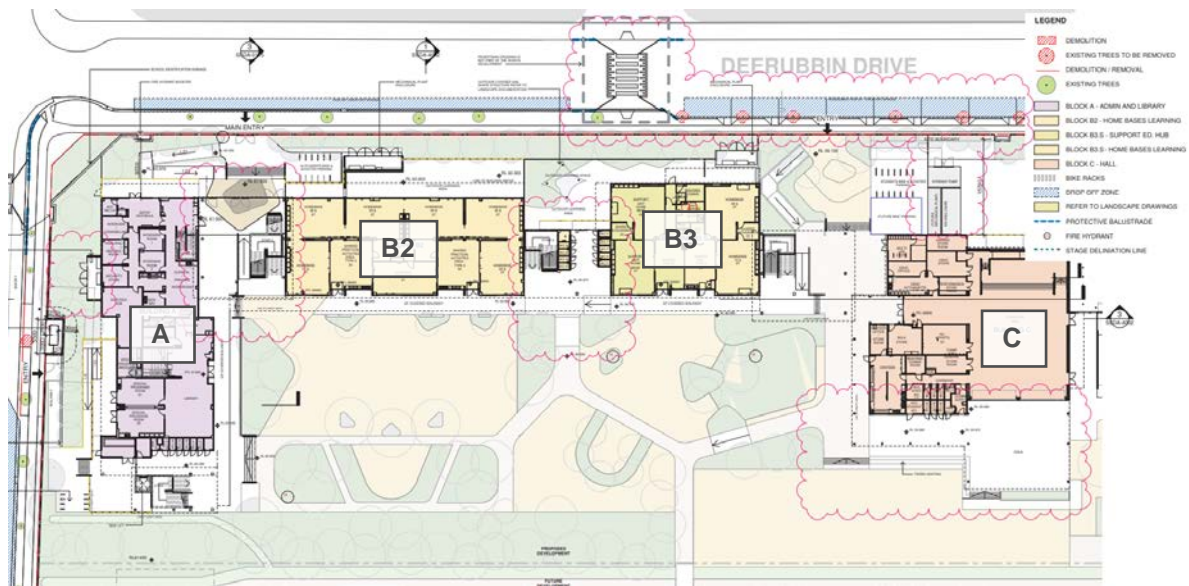
The proposed school would occupy the northern half of the site, with the southern half of the site to accommodate future school development (as part of a separate planning approval) as shown in **Figure 5**. The proposed school buildings would be located along the northern and western boundaries of the site with a playground located to the south of buildings B2 and B3 (as seen in **Figure 6**). The buildings would feature neutral coloured sun hoods, prefinished metal cladding and light-coloured corrugated metal roofing with insulation to minimise heat absorption.

All buildings would be connected to the adjoining building via covered walkways on the ground floor. On Level 1 a covered walkway would connect Buildings A, B2 and B3, with access to Level 1 via stairs and lifts provided. Canopies connecting the buildings would provide visual interest as part of a skillion style roofing scheme and would provide covered access to all the buildings. The hall would be located to the east of the site adjacent to the service vehicle turning bay and the basketball court. A COLA would be located to the south of the hall.

The proposed car park would be located to the east of the site and would be accessed via Forestwood Drive. A second waste/service vehicle access would be located to the north-east of the site and would be accessed via Deerubbin Drive

The proposed layout of the ground floor is shown in **Figure 6** and the first floor layout in **Figure 7**.

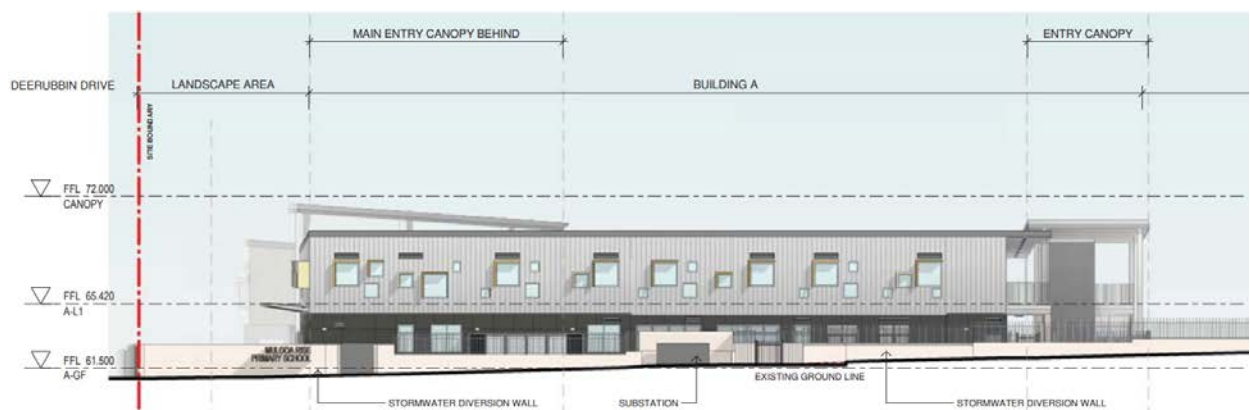




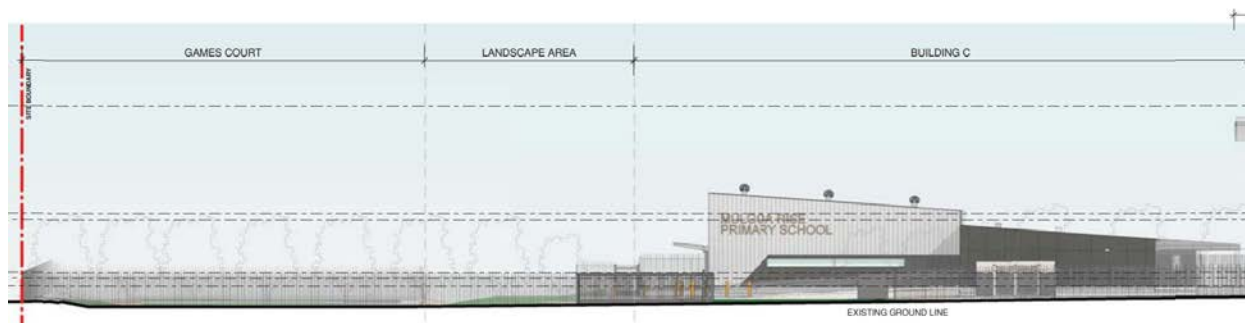
**Figure 6 | Proposed ground floor layout (Source: Applicant's RtS)**



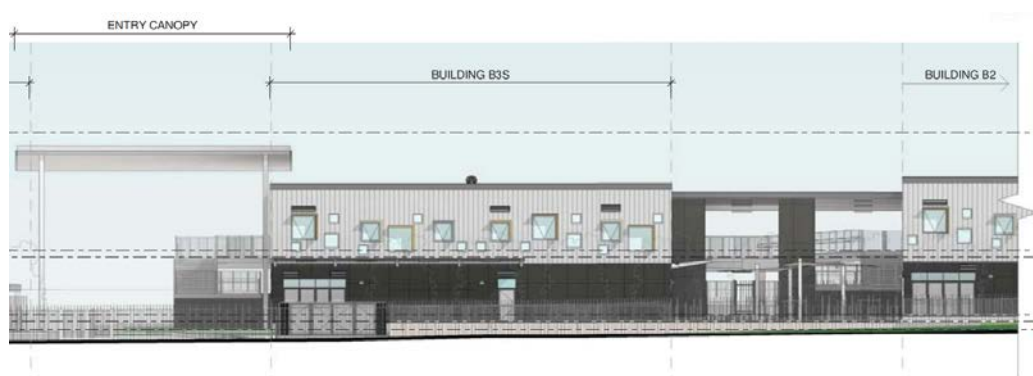
**Figure 7 | Proposed first floor layout (Source: Applicant's RtS)**



**Figure 8 | Western elevation (Source: Applicant's RtS)**



**Figure 9 | Northern elevation #1 (Source: Applicant's RtS)**



**Figure 10 | Northern elevation #2 (Source: Applicant's RtS)**



**Figure 11 | Northern elevation #3 (Source: Applicant's RtS)**

## 2.2 Uses and activities

The proposal is for a primary school of up to 414 students (future expansion to 1,000 students is subject to a separate planning approval process), including before and after school care and community use of the site outside of school hours. The expected date of the future expansion was not provided in the assessment documentation provided by the Applicant.

## 2.3 Timing

The Applicant advises that the construction of the proposal is expected to commence in early 2022, with the school expected to be operational for Term 1 in 2023.

## **2.4 Related development**

No related development applications apply to the site. To the north of the site, DA19/0348 was determined by Penrith City Council (Council) on 2 September 2020. The approved development includes the construction of a four-storey mixed-use development including, parking, commercial and retail spaces, a childcare centre with capacity for 112 children, and 147 residential apartments.

### 3 Strategic context

It is anticipated that there will be a 21% growth in student numbers in NSW by 2031 compared to 2017. This means that NSW schools will need to accommodate an extra 269,000 students, with 164,000 of these students in the public system. In response to the need for additional public education infrastructure because of increased demand, the NSW Department of Education is investing \$6.7 billion to deliver new schools and upgrade existing schools. Schools Infrastructure has committed to providing a new primary school at Mulgoa Rise to address the rising demand on existing schools around Glenmore Park.

The Department considers that the proposal is appropriate for the site given it is consistent with:

- *NSW Premiers Priorities*, as it provides new and improved teaching and education facilities
- the Greater Sydney Commission's A Metropolis of Three Cities, The Greater Sydney Region Plan, as it proposes new school facilities to meet the growing needs of Sydney. Transport for NSW's Future Transport Strategy 2056 as it would provide a new educational facility in an accessible location.
- the vision outlined in the Greater Sydney Commission's Western City District Plan, as it would provide much needed school infrastructure conveniently located near existing public transport services and opportunities to co-share facilities with the local community.
- Infrastructure NSW's State Infrastructure Strategy 2018 – 2038 Building the Momentum, as it would include:
  - facilities to support the growth in demand for primary student enrolments; and
  - a school design to accommodate infrastructure and facilities sharing with the community.
- Sydney's Cycling Future 2013, as it would promote and cater for bicycle use through the provision of bicycle parking.
- Planning for a Brighter Future - Penrith Local Strategic Planning Statement 2020, as it would provide a new education facility to "ensure our social infrastructure meets the changing needs of our communities".

The proposal would also provide direct investment in the region of approximately \$34 million, which would support 144 full-time equivalent (FTE) construction jobs and 27 new operational jobs.

## 4 Statutory context

### 4.1 State significance

The proposal is SSD under section 4.36 (development declared SSD) of the Environmental Planning and Assessment Act 1979 (EP&A Act) as the development is for the purpose of a new school under clause 15 of Schedule 1 of the State Environmental Planning Policy (State and Regional Development) 2011.

The Minister for Planning (the Minister) is the consent authority under section 4.5 of the EP&A Act.

In accordance with the Minister for Planning's delegation to determine SSD applications, signed on 9 March 2022, the Director, Regional Assessments may determine this application as:

- the relevant Council has not made an objection.
- there are less than 15 public submissions in the nature of objection.
- a political disclosure statement has not been made.

### 4.2 Permissibility

The site is identified as being located within the R1 General Residential zone by the Penrith Local Environmental Plan (PLEP) 2010. Educational establishments are not permissible with consent within the zone under the local planning instrument.

Notwithstanding, Clause 35(1) of the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (the Education SEPP) allows for development for the purpose of a school to be carried out with development consent on land in a prescribed zone. R1 General Residential is listed as a prescribed zone in clause 33 of the Education SEPP and therefore the proposal is permissible with consent.

The proposal also includes shared use of some facilities for the community which would be ancillary to the use as an Educational Establishment and is also permissible with consent. Therefore, the Minister for Planning or a delegate may determine the carrying out of the development in accordance with section 4.5 of the EP&A Act.

### 4.3 Other approvals

Under section 4.41 of the EP&A Act, several other approvals are integrated into the SSD approval process and consequently are not required to be separately obtained for the proposal.

Under section 4.42 of the EP&A Act, several further approvals are required but must be substantially consistent with any development consent for the proposal (e.g. approvals for any works under the *Roads Act 1993*).

The Department has consulted with the relevant public authorities responsible for other approvals, considered their advice in its assessment of the project, and included suitable conditions in the recommended conditions of consent (see **Appendix C**).



## 4.4 Mandatory matters for consideration

### 4.4.1 Environmental planning instruments

Under section 4.15 of the EP&A Act, the consent authority is required to take into consideration any environmental planning instrument (EPI) that is of relevance to the development the subject of the development application. Therefore, the assessment report must include a copy of, or reference to, the provisions of any EPIs that substantially govern the project and that have been considered in the assessment of the proposal.

The Department has undertaken a detailed assessment of these EPIs in **Appendix B** and is satisfied the application is consistent with the requirements of the EPIs.

### 4.4.2 Objects of the EP&A Act

The objects of the EP&A Act are the underpinning principles upon which the assessment is conducted. The statutory powers in the EP&A Act (such as the power to grant consent) are to be understood as powers to advance the objects of the legislation, and limits on those powers are set by reference to those objects. Therefore, in making an assessment, the objects should be considered to the extent they are relevant. A response to the objects of the EP&A Act is provided in **Table 2**.

**Table 2 | Response to the objects of section 1.3 of the EP&A Act**

Objects of the EP&A Act	Consideration
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,	The site is currently vacant and is suitable for use as an educational establishment to serve the local catchment. The development would not unreasonably negatively impact the economic welfare of the community, or the natural environment.
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	The proposal includes measures to deliver ecologically sustainable development (ESD) ( <b>Section 4.4.3</b> ).
(c) to promote the orderly and economic use and development of land,	The proposal is an orderly and economic development and use of the land as it provides a fit for purpose education establishment to support the demand in a growing area.
(d) to promote the delivery and maintenance of affordable housing,	Not applicable.
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,	The proposal would not affect any protected or threatened species or vegetation communities. The proposal involves landscaping and planting that would provide for new habitat opportunities.

Objects of the EP&A Act	Consideration
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	<p>The site does not include any buildings with European heritage values or significance.</p> <p>An Aboriginal Cultural Heritage Assessment Report (ACHAR) was submitted with the EIS which identified the Aboriginal cultural heritage values of the site in consultation with Aboriginal communities and set out appropriate mitigation measures to protect these values (<b>Section 6.4</b>).</p>
(g) to promote good design and amenity of the built environment,	<p>The proposal has been designed to minimise potential amenity impacts, whilst maximising its internal amenity and ensuring good design is achieved. The buildings have a contemporary functional design that would integrate with the surrounding and future built environment.</p>
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,	<p>The proposal would promote proper construction and maintenance of buildings subject to recommended conditions of consent.</p>
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	<p>The Department publicly exhibited the proposal, which included consultation with Council and other public authorities and consideration of their responses (<b>Sections 5.1 and 6</b>).</p>
(j) to provide increased opportunity for community participation in environmental planning and assessment.	<p>The Department publicly exhibited the proposal as outlined in <b>Section 5.1</b>, which included notifying adjoining landowners and displaying the proposal on the Department's website during the exhibition period. Issues raised in the submissions have been considered in <b>Section 6</b>.</p>

#### 4.4.3 Ecologically sustainable development

The EP&A Act adopts the definition of ESD found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- the precautionary principle.
- inter-generational equity.
- conservation of biological diversity and ecological integrity.
- improved valuation, pricing and incentive mechanisms.

The development proposes ESD initiatives and sustainability measures, including:

- high performing building façade, integrated shading and use of light coloured roofs;
- installation of solar photovoltaic panels;
- energy efficiency targets for appliances;
- use of water-efficient fixtures and fixings, rainwater collection and reuse, and Water Sensitive Urban Design (WSUD) landscaping;
- selection of exposed services or prefabricated components to reduce material consumption and resistant material to reduce the frequency of replacement; and
- encouraging students and staff to use active transport through the provision of bike and scooter parking and end of trip facilities for staff.

The EIS included an ESD report that details how the principles would be addressed in the development. Although no specific Green Star rating has been proposed, the project complies with the Educational Facilities Standards and Guidelines (EFSG) issued by the Department of Education, which targets an equivalent 4-Star Green Star rating.

The Department has considered the proposed development in relation to the ESD principles. The precautionary and inter-generational equity principles have been applied in the decision-making process via a thorough assessment of the environmental impacts of the proposed development.

In order to ensure that ESD is incorporated into the proposed development, the Department has recommended a condition that requires the Applicant to register for a minimum 4-star Green Star rating with the Green Building Council Australia, or an alternative certificate process as agreed by the Planning Secretary, prior to the commencement of construction. Subject to this condition, the proposed development is consistent with ESD principles as described in Section 3 and Appendix N of the Applicant's EIS, which has been prepared in accordance with the requirements of Schedule 2 of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation). Overall, the proposal is consistent with ESD principles and the Department is satisfied the proposed sustainability initiatives would encourage ESD, in accordance with the objects of the EP&A Act.

#### **4.4.4 Environmental Planning and Assessment Regulation 2000**

Subject to any other references to compliance with the EP&A Regulation cited in this report, the requirements for Notification (Part 6, Division 6) and Fees (Part 15, Division 1AA) have been complied with. The *Environmental Planning and Assessment Regulation 2021* was enforced on 1 March 2022. Section 3, Schedule 6 of the new Regulation states that the EP&A Regulation 2000 continues to apply to development applications that had been made but not determined before 1 March 2022.

#### **4.4.5 Planning Secretary's Environmental Assessment Requirements**

The EIS is compliant with the Planning Secretary's Environmental Assessment Requirements (SEARs) and is sufficient to enable an adequate consideration and assessment of the proposal for determination purposes.

#### **4.4.6 Section 4.15(1) matters for consideration**

**Table 3** identifies the matters for consideration under section 4.15 of the EP&A Act that apply to SSD in accordance with section 4.40 of the EP&A Act. The table represents a summary for which

additional information and consideration is provided in **Section 6** (Assessment) and relevant appendices or other sections of this report and EIS, referenced in the table.

**Table 3** | Section 4.15(1) matters for consideration

Section 4.15(1) Evaluation	Consideration
(a)(i) any environmental planning instrument	Satisfactorily complies. The Department's consideration of the relevant EPIs is provided in <b>Appendix B</b> .
(a)(ii) any proposed instrument	The Department's consideration of the relevant draft EPIs is provided in <b>Appendix B</b> .
(a)(iii) any development control plan (DCP)	Under clause 11 of the SRD SEPP, DCPs do not apply to SSD.
(a)(iiia) any planning agreement	Not applicable.
(a)(iv) the regulations <i>Refer Division 8 of the EP&amp;A Regulation</i>	The application satisfactorily meets the relevant requirements of the EP&A Regulation, including the procedures relating to applications (Part 6 of the EP&A Regulation), public participation procedures for SSD and Schedule 2 of the EP&A Regulation relating to EIS.
(b) the likely impacts of that development including environmental impacts on both the natural and built environments, and social and economic impacts in the locality	Appropriately mitigated or conditioned - refer to <b>Section 6</b> .
(c) the suitability of the site for the development	The site is suitable for the development as discussed in <b>Sections 3, 4 and 6</b> .
(d) any submissions	Consideration has been given to the submissions received during the exhibition period. See <b>Sections 5 and 6</b> .
(e) the public interest	Refer to <b>Sections 6 and 7</b> .

## 4.5 Biodiversity Conservation Act 2016

Under section 7.9(2) of the Biodiversity Conservation Act 2016 (BC Act), SSD applications are "to be accompanied by a biodiversity development assessment report (BDAR) unless the Planning Agency Head and the Environment Agency Head determine that the proposal is not likely to have any significant impact on biodiversity values".

The proposed works are not likely to have a significant impact on biodiversity values. The Environment, Energy and Science Group (EESG) and the Department have determined that the proposed development is not required to be accompanied by a biodiversity development assessment report and issued a BDAR Waiver on 20 April 2021.

## 5 Engagement

### 5.1 Department's engagement

In accordance with Schedule 1 of the EP&A Act, the Department publicly exhibited the application from Friday 3 September 2021 until Thursday 30 September 2021 (28 days). The application was exhibited on the Department's website and the Department notified adjoining landholders and relevant state and local government authorities in writing.

Following the exhibition of the EIS, the Department placed copies of all submissions received on its website and requested the Applicant provide a response to the issues raised in the submissions. The Department representatives visited the site to provide an informed assessment of the development on 16 December 2021.

The Department has considered the comments raised in the public authority and public submissions during the assessment of the application (**Section 6**) and/or by way of recommended conditions in the instrument of consent at **Appendix C**.

### 5.2 Summary of submissions

The Department received two submissions of support from the public and advice from 10 public authorities. A summary of the issues raised is provided in **Sections 5.3** and **5.4** below. Copies of the submissions may be viewed at **Appendix A**.

### 5.3 Public authority advice

A summary of the issues raised in advice from public authorities is provided in **Table 4** below and copies of the advice may be viewed at **Appendix A**.

**Table 4** | Summary of public authority advice to the EIS exhibition

Public Authority	Comment
Council	<p>Raised concerns, recommendations and recommended conditions relating to a variety of aspects of the proposal, including:</p> <ul style="list-style-type: none"><li>• Urban design and public domain<ul style="list-style-type: none"><li>○ additional planting within front setback to screen utilities infrastructure to avoid a poor public domain outcome, and increase canopy cover along Deerubbin Drive.</li><li>○ recommended the re-location of plant and waste infrastructure and appropriate entry points, internal pathways and all-weather protection for students waiting to board a bus or car.</li></ul></li><li>• Traffic and transport<ul style="list-style-type: none"><li>○ recommended that a 'No Stopping' zone on Forestwood Drive should be extended along to Parkway Avenue.</li></ul></li></ul>



- fencing should direct pedestrians toward crossings and should be crash rated.
- noted that at-grade pedestrian crossings were not supported and that the crossings and traffic controls should meet relevant Australian Standards and TfNSW Technical Directions.
- requested that street lighting of pedestrian crossings should be submitted to the satisfaction of Council as roads authority.
- requested that details and dimensions should be provided of all signage and line marking associated with the proposal.
- requested the funding of a Travel Coordinator to commence in year one operation, and provision of a school crossing supervisor.
- queried the proposed mode share targets.

#### *Public transport*

- dedicated bus service with drop-off and pick-up area fronting the school is preferred to reduce students crossing roads. If not, existing bus stops should comply with TfNSW guidance, including bus zone signage, DDA compliant boarding points and shelters.
- recommended the use of Subsidised School Transport Scheme and School Term Bus Pass.

#### *Car parking*

- recommended that parking for the future stages should be provided in this proposal to reduce parking impacts and that accessible “Assisted Pick-Up and Drop-Off” spaces should be provided on-site.
- recommended a review of the Council sports car park and the possibility of it being used as a pick-up and drop-off location, and that on-street parking estimation be revised to consider ‘No Stopping’ distances.

#### *Traffic Management*

- An OTAMP must be prepared for the site.
- proposed installation in CTMP of ‘No Stopping’ signs would require approval by the Local Traffic Committee.

#### • Noise and Vibration

- inconsistency of construction hours on Saturday afternoons and request that hours be kept to 8am – 1pm on Saturday and no work on Sunday or Public Holidays.
- lack of mitigation measures to address noise. Noise impacts to surrounding residents should be addressed in an operational Plan of Management.

#### • Landscape Design and Tree Management

- a tree planting plan should be prepared to identify the location of canopy trees. Trees should also be provided sufficient soil depth to ensure growth and stability.
- planted species should be compatible with local site conditions (such as Cumberland plain soils and the heat of Western Sydney).
- canopy trees or shade structures should be placed over areas where synthetic turf and rubber soft fall areas are proposed.

#### • Health and Design

- outlined design details for health and food preparation areas, and requested that an Electromagnetic Report be provided to identify impacts of substation

#### • Community Planning

	<ul style="list-style-type: none"> <li>○ clarification of whether the basketball court/multi-court would be accessible to the wider community when school is closed.</li> <li>○ shared use of Council's sports facilities or car parking would require further engagement with council.</li> </ul> <ul style="list-style-type: none"> <li>• Other issues <ul style="list-style-type: none"> <li>○ any updates to the Overland Flow Flood Study should include current ground survey data and the Flood Impact Assessment be submitted to Council for review.</li> <li>○ clarification on the provision of lifts and the requirement that accessible access and facilities be delivered in accordance with the relevant Australian Standards.</li> <li>○ recommended that a Fill Import Protocol be prepared before works commence.</li> <li>○ requested evidence that a minimum of 80% non-potable water use with harvested rainwater is achievable, as per Council's WSUD Policy.</li> <li>○ thorough geotechnical investigations are required and should demonstrate that the site is suitable for the proposed development.</li> </ul> </li> </ul>
<b>NSW Rural Fire Service</b>	NSW RFS advised that the site is not bushfire prone and that it did not have specific comments to make on the proposal.
<b>Sydney Water</b>	<p>Provided the following comments:</p> <ul style="list-style-type: none"> <li>• The applicant had already lodged a Notice of Requirements which was not formal approval of servicing requirements, which would be covered through a Section 73 application.</li> <li>• Additional information regarding the next steps and the requirements for commercial and industrial property developments were provided as an attachment.</li> </ul>
<b>Endeavour Energy</b>	<p>Provided the following comments:</p> <ul style="list-style-type: none"> <li>• The Applicant should engage with Endeavour Energy for the application for connection of load processes.</li> <li>• The use of small and medium embedded generators may affect other users connected to the network and the Applicant should undertake a detailed technical review of the network capacity and an analysis of the generator's protection schemes and quality of supply before permission to connect to the network is allowed.</li> </ul>
<b>Civil Aviation Safety Authority (CASA)</b>	Noted that the tallest building would be 11 metres above ground level and had no objections to the proposal.
<b>EPA</b>	<p>EPA noted that the proposal did not require an environment protection licence. Comments relating to noise were:</p> <ul style="list-style-type: none"> <li>• recommended alternate background noise level monitoring locations,</li> </ul>

- construction impacts to the Early Learning Centre to the north-east of the site should be assessed and mitigation measures proposed to manage those impacts,
- inclusion of community engagement procedures in the noise and vibration procedures, recommended limits on noise impacts, out of hours operation, and construction hours.

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#### **EESG**

- Use of local species
  - recommendation that site (including the staff carpark) and street planting use a variety of local native species that once occupied the site, rather than exotic or non-local native species.
  - noted the benefits (including educational value) of using local native plants on the site.
  - recommended the removal of the exotic species (which has been listed as a weed) planted around the development to reduce risk of spread into local areas of native growth.
- Installation of habitat features
  - recommended that features such as logs, artificial nest boxes and bee hotels be installed.
  - ongoing monitoring of nest boxes to identify if they are occupied.
- Urban heat island effect
  - noted support for the proposed light-coloured roof to minimise urban heat island effect.
- Flooding
  - requested clarification of flood level contours due to inconsistencies throughout Appendix A of the EIS
  - safety measures should be established to enable to safe access to and from the school during extreme flood events.

Recommended conditions were also provided.

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#### **Government Architect**

GANSW noted that substantial changes had been made between the first State Design Review Panel meeting regarding the proposal and the lodgement of the EIS. GANSW noted the improvements to the staging of the proposal, parking and waste removal and additional detail provided of the landscape strategy. The GANSW made the following comments:

- separation of built form from the landscape and loss of sheltered outdoor learning spaces
  - appropriateness of tree cover
  - lack of daylight in some teaching spaces
  - climate impacts, and
  - how flooding impacts have informed the design and landscape
  - additional issues were identified, including
    - underutilisation of 8m gap between boundary and building edge, resulting in visual disconnection from community
    - lack of evidence of Connecting with Country design response
    - use of appropriate materials for building uses
    - removal of street trees
    - dominance of high steel fencing on the street scape, and
    - deferring the delivery of sports field to Stage 2 of the development.
-

- GANSW also noted the need for the proposal to return to the SDRP to ensure good design outcomes are achieved.

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#### **TfNSW**

- Traffic and Transport
  - bus bays should be suitably sized to ensure buses are fully within the bay and located away from pedestrian crossings in line with Australian Standards to ensure sightlines are not obstructed.
  - parking spaces should be revised to accommodate minimum buffer between zebra crossings.
  - location of school drop off/pick up along Deerubbin Drive is not encouraged due to proximity of the mixed used development basement entry due to possible queuing and conflicts with pedestrians crossing Deerubbin Drive.
  - clarification of measures to prevent u-turns on Deerubbin Drive.
  - crossings should be designed in accordance with relevant standards and guidelines. TfNSW noted that fencing is not supported as part of a zebra crossing as it may obscure visibility of pedestrians.
  - queried location of crossings and the need for kerb expansion to meet sight distance compliance.
  - noted that it was expected that speed counts be undertaken to confirm the speed of traffic and that crossings would need to be submitted to the Local Traffic Committee for Council's approval. TfNSW queried whether children's crossings are considered.
  - swept paths provided are not acceptable due to heavy rigid vehicles having to enter the opposing traffic lane which may cause conflicts to smaller vehicles.
  - queried sightline assessment consideration of pedestrian views
  - noted that school zone signage plan is only able to be approved by TfNSW and it is not considered approved and approval to instal school zone signs must be submitted for review and approval by TfNSW at least 8 weeks before operation
  - requested confirmation of how long it would be until target travel mode share is achieved and queried whether comparisons of other projects had been undertaken
  - queried assumption that traffic coming from the south of the development would only access the school via Forestwood Drive rather than Deerubbin Drive.
- School Transport Plan
  - recommendations were proposed to update the School Transport Plan
- Preliminary Construction Traffic and Pedestrian Management Plan
  - noted the need for traffic controllers along Darug Avenue
  - use of smaller construction vehicles to reduce trucks occupying the opposite side of the road when turning.

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#### **Heritage NSW (ACH)**

Noted that the proposed development would not impact upon any Aboriginal heritage sites or values.

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## 5.4 Public submissions

Two public submissions were received, and copies of the submissions may be viewed at

**Appendix A.** The submissions noted support for the project, including:

- benefits of the proposal for local residents; and
- opportunities for reduction of carbon footprint and mode-shift from car to active transport usage due to the location of the school closer to residents.

## 5.5 Response to submissions

Following the exhibition of the application, the Department placed copies of all submissions received on its website and requested the Applicant provide a response to the issues raised in the submissions.

On 18 November 2021, the Applicant provided a Response to Submissions (RtS) (**Appendix A**) on the issues raised during the exhibition of the proposal. The RtS included:

- amended architectural plans showing:
  - a reduction and change in canopy sizes, locations and form;
  - relocation of the Covered Outdoor Learning Area (COLA) and changes to Block C Hall;
  - amendments to the layout and awnings of Block B3S;
  - adjustments to fence locations;
  - redesigned main entry layout;
  - replacement of external vertical fins with sun shading hoods;
  - relocation of services plant spaces; and
  - changes of the proposed external materials and finishes
- amended landscape plans showing:
  - rationalisation of hard paved areas;
  - consolidated seating areas;
  - revised play areas;
  - updated to landscape design in response to building adjustments; and
  - consolidation of the materials palette.

The RtS was made publicly available on the Department's website and was referred to the relevant public authorities. The Department received additional advice from 5 public authorities, including Council, in response to the RtS. A summary of the public authority advice on the RtS is provided at **Table 5**.

**Table 5 | Summary of public authority advice to the RtS**

Public Authority	Comment
Council	Council clearly indicated that it did not support the use of at-grade pedestrian crossings and that as both the local road authority and having knowledge of local stormwater infrastructure it did not see adequate justification for the provision of an at-grade crossing. Council noted that it had recently approved a raised pedestrian



crossing along Deerubbin Drive between the mixed-use development and the school site. Council provided the following additional comments:

- High level of canopy tree planting is encouraged within the front setback;
- relocation of plant and infrastructure from Deerubbin Drive;
- clarification required on when doors and windows of the library and hall would be closed during use by community;
- requested setback of fencing and retention of existing street trees;
- provision of shade structures on opening;
- maintenance access details requested;
- compliance of food handling areas, the details of supplies for sick bays and amenities for students;
- implementation of erosion and sediment control plans for the duration of works.

Council also provided recommended conditions of approval.

<b>EPA</b>	The EPA noted the inclusion of the Early Learning Centre in the updated Noise and Vibration Assessment and had no further comments.
<b>TfNSW</b>	TfNSW identified that the proposal required further design prior to the issuing of a Construction Certificate. TfNSW also recommended that School Travel Plan be submitted to TfNSW for review and approval prior to the issuing of a construction certificate and provided recommended conditions of consent.
<b>EESG</b>	<p>EES reiterated its comments on the EIS that a condition be prepared requiring that any planting/landscaping use a range of native vegetation from native vegetation communities. EES also recommended:</p> <ul style="list-style-type: none"> <li>• the installation of habitat features, and</li> <li>• various conditions of consent, including the use of light-coloured roofs, and tree planting conditions.</li> </ul> <p>Supplementary comments were received regarding flooding impacts, which reiterated EES' comments on the EIS:</p> <ul style="list-style-type: none"> <li>• that flood level contours provided are inconsistent within the report, and</li> <li>• the access roads to schools in the PMF are of high hazard categories and require a Flood Emergency Plan.</li> </ul>
<b>Government Architect</b>	GANSW noted that the Connecting with Country work undertaken by the Applicant and indicated its support for the design changes and recommends a commitment to ongoing engagement in the development of various strategies through construction, operation, and future stages.

## 5.6 Supplementary information

On 21 December 2021, the Applicant provided a response to agency comments on the RtS. The Applicant advised that the following changes had been made to the project in response to agency comments on the RTS:

- after 10pm all external doors and windows would be closed,
- updated planting schedule to remove proposed exotic species and only use local plant communities, and
- habitat elements would be included in the design.

## 6 Assessment

The Department has considered the EIS, the issues raised in submissions, the Applicant's RtS and supplementary information in its assessment of the proposal. The Department considers the key issues associated with the proposal are:

- flooding
- traffic and transport, and
- urban design and built form.

These issues are discussed in the following sections of this report. Other issues taken into consideration during the assessment are discussed at **Section 6.4**.

### 6.1 Flooding

The EIS included a Flood Impact Assessment which identified that:

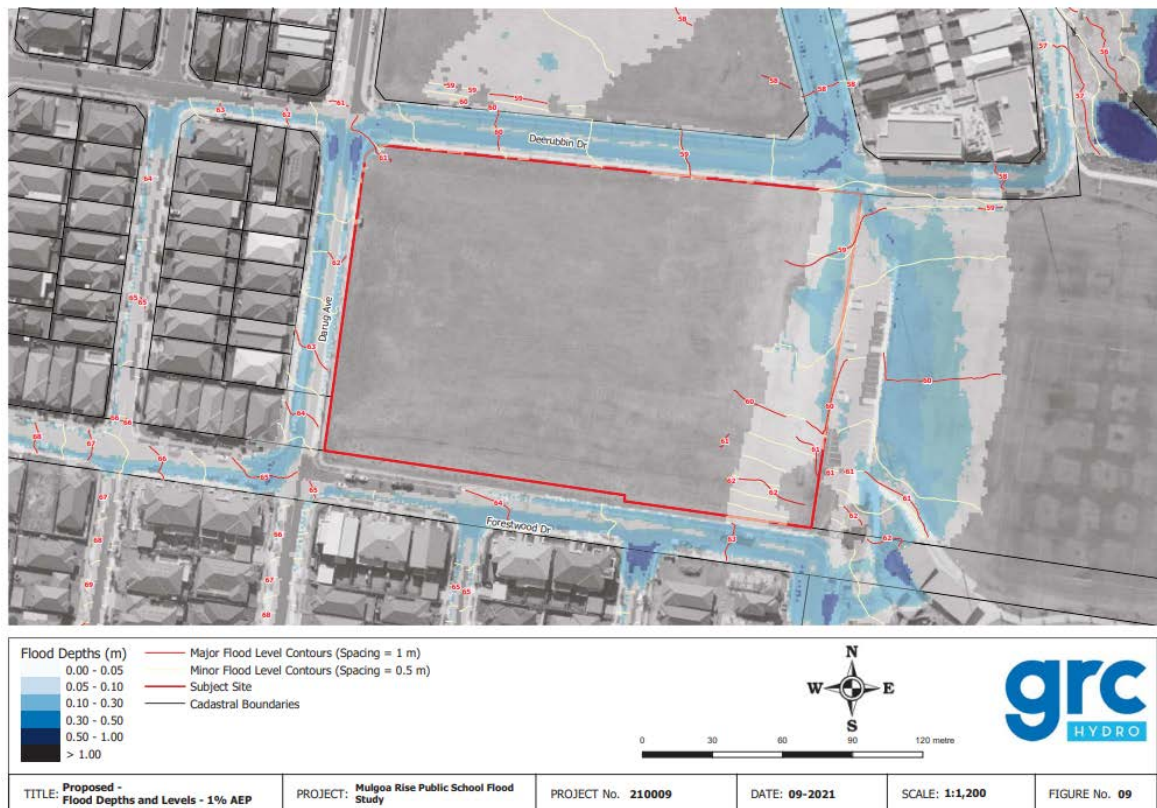
- the site is affected by overland flooding due to the large frontage of Forestwood Drive and the reduced capacity of the surrounding roads
- based on modelling undertaken, the site experiences shallow (~300mm) overland flooding during the 1% Annual Exceedance Probability (AEP) storm event
- the proposed school buildings finished floor levels (FFL) have been designed to be 500mm above the 1% AEP, in line with Council's requirements
- the delivery of raised pedestrian crossing infrastructure in Darug Avenue and Forestwood Drive would exacerbate flood levels on both the site (impacting the FFLs) and adjacent properties
- the site is not affected by flooding of the Nepean River and tributaries during the 1% AEP event

The Applicant provided an Updated Flood Impact Assessment as part of the RtS which included detailed modelling regarding the impacts of the development that was not provided in the EIS. The updated assessment identified that the development would:

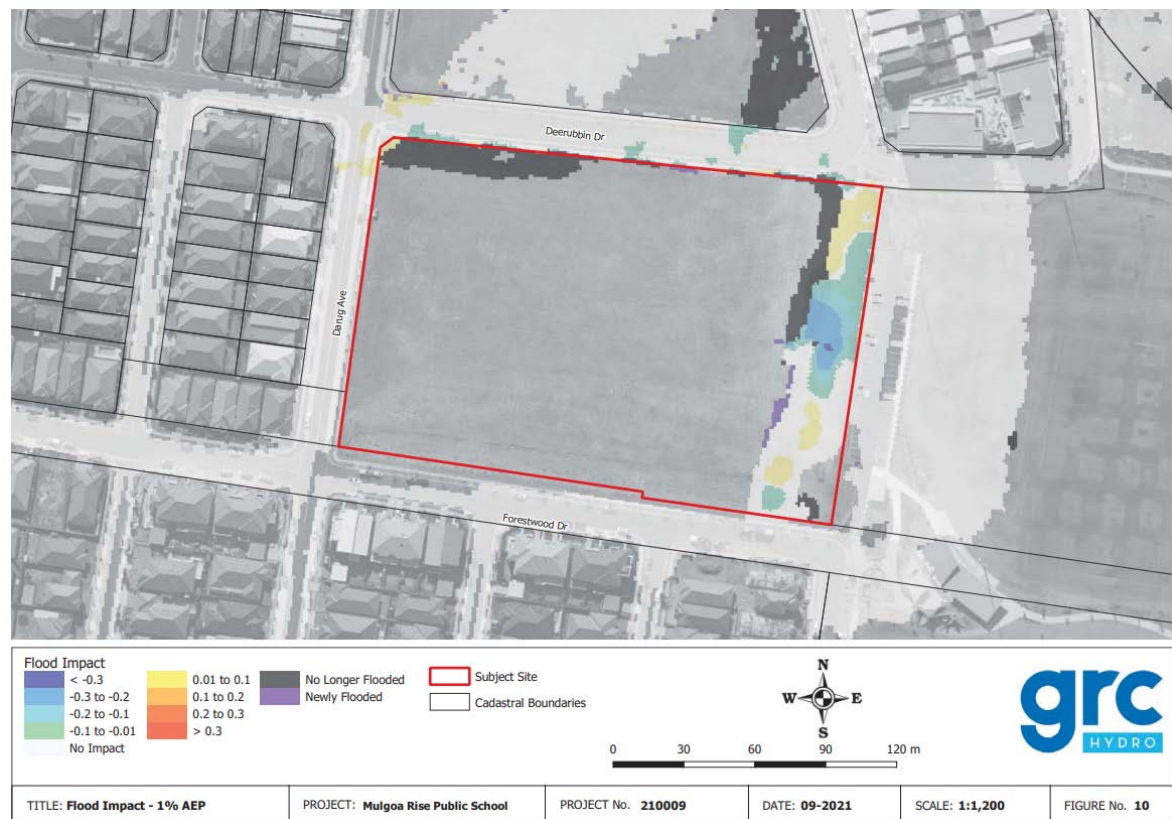
- increase flood levels in the north-west corner of the site by 10mm – 100mm which would not impact private property
- the car park would also result in increased flood levels between 10mm – 100mm which are localised. The car park would also introduce newly flooded areas which were considered to have low hazard characteristics and <300mm in depth.

The Department has reviewed the flood reports and resolved the following issues during assessment:

- flood events and pedestrian infrastructure
- flood assessment and emergency response



**Figure 12 |** Flood levels of the proposed development during 1% AEP event (Source: Applicant's RtS)



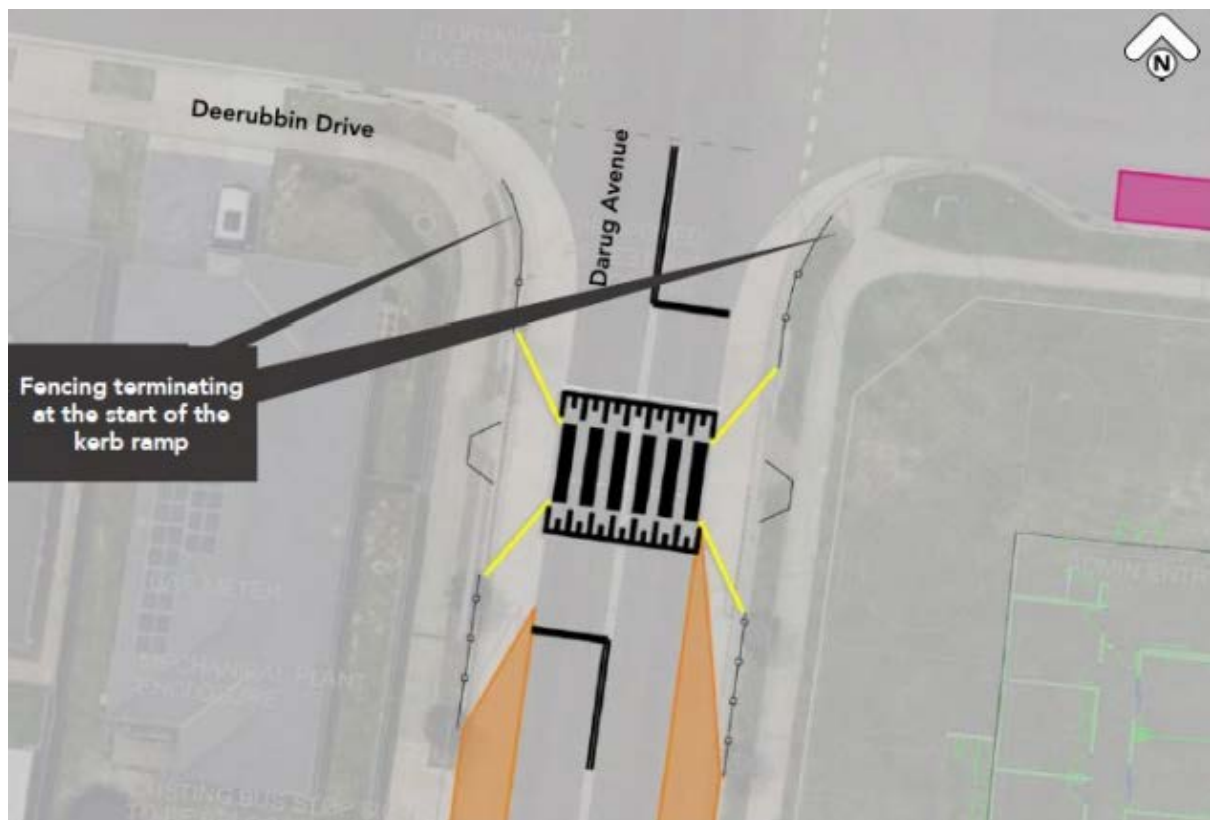
**Figure 13 |** Flood impact of the proposed development during 1% AEP event (Source: Applicant's RtS)

### 6.1.1 Pedestrian Infrastructure

The Civil Design Report provided in the EIS identified that during a 1% AEP event the surrounding stormwater infrastructure would be at capacity, which would force flood waters to run overland. The introduction of a raised crossing or blisters into the road corridor would limit the overland flow capacity of Darug Avenue, Deerubbin Drive and Forestwood Drive and would cause impacts to adjacent properties and the site. The Report also identified that increasing the capacity of the stormwater infrastructure in the area would still result in overland flow and impacts to adjacent properties and the site. In response to these impacts, the Applicant proposed that no raised crossings or blister kerbs would be provided at any crossing locations.

The Traffic and Transport Assessment (TTA) in the EIS proposed an at-grade zebra crossing would be provided with fencing to imitate blister kerbs (see **Figure 14**) at the crossing locations of Darug Avenue and Forestwood Drive. The TTA included consideration of the relevant TfNSW Roads and Maritime Service requirements for crossings based on the expected numbers of pedestrians and vehicles using the crossings. The TfNSW requirements do not require the provision of a zebra crossing for any of the crossings around the site and state that the crossing of Darug Avenue would warrant the provision of a children's crossing.

Even though the roads surrounding the site do not warrant for provision of zebra crossings, the Applicant has provided at-grade pedestrian crossings at Darug Avenue and Forestwood Drive to encourage active transport and provide safe crossing facilities for students. The crossing of Deerubbin Drive is being provided by the developer of the mixed use development to the north. Consideration of the crossing and its suitability for additional student capacity is subject to separate planning approval and was not considered as part of this assessment.



**Figure 14 |** Proposed pedestrian crossing (Source: Applicant's RtS)



During agency consultation, Council and TfNSW raised concerns with the proposed approach to the delivery of pedestrian infrastructure. Council requested that all crossings be raised children's crossings with no fencing to conform with Council's general design. TfNSW stated that the crossing must be designed in accordance with relevant criteria and that it did not support the use of fencing as part of the zebra crossing as it would reduce the visibility of children approaching the crossing to road users.

In response, the Applicant's RtS noted that fencing may reduce the visibility of pedestrians and has proposed using bollards or another form of protection to imitate blister kerbs.

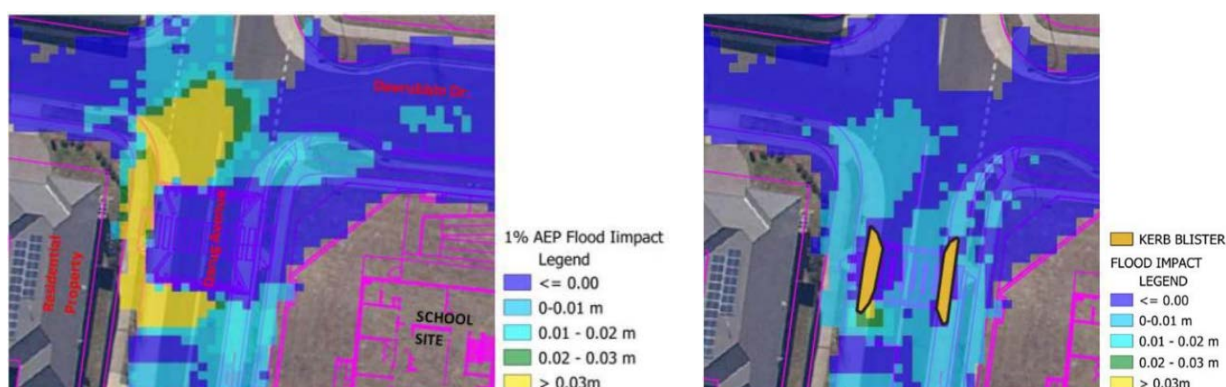
Council and TfNSW provided comments on the RtS. Council noted:

- its strong objection to the installation of at-grade crossings and that as both the local roads authority and local flooding knowledge-holder it did not see an adequate justification for not providing raised pedestrian crossings.
- the recent approval of the raised pedestrian crossing of Deerubbin Drive (proposed in the EIS as an at-grade children's crossing that would be delivered by the developer of the mixed-use site).

TfNSW reiterated that the fencing proposed in yellow in **Figure 14** was not supported. TfNSW also noted that any devices installed in the roadway should be designed to the satisfaction of Council as the local roads' authority.

The Department met with the Applicant and Council to discuss the conflicting views on pedestrian infrastructure on 14 December 2021. The Department also requested further flood assessment into the impacts of the proposed at-grade crossing and the raised crossing as requested by Council. It requested additional modelling and mapping of the flood conditions (including depth and impact to floor levels) and a risk assessment for flooding and pedestrian safety.

The Applicant's RtS, noted that the provision of a raised crossing or blister kerbs would have a low impact on the site and adjacent properties, but that the inclusion of the infrastructure would worsen the flood hazard to drivers using the intersection of Darug Avenue and Deerubbin Drive. In response, the Applicant proposed that an agreed position with Council can be reached regarding the crossing as part of the approval for all works within the road reserve required by the Roads Act 1993.



**Figure 15 and 16** | Flood impact of raised pedestrian crossing (left) and blister kerbs and at-grade crossing (right) (Source: Applicant's Response to RFI)

The Department has reviewed the Applicant's approach which seeks to develop a solution that provides additional safe crossing facilities for students and ensures the safety of road users (both pedestrians and vehicles) and adjacent private properties. The impacts of any raised crossing on the adjacent property during the 1% AEP event are not acceptable due to the increased risk to property and vehicle movements. The Department is satisfied that the concerns raised by Council regarding risk of pedestrian safety for the crossing at Darug Avenue could be addressed through the design features outlined in **Table 6**. The design features meet the requirements for the scale and usage of the road in the TfNSW guidelines whilst also reducing potential flooding impacts to both people and property. The use of fencing is not supported as an imitation of kerb blisters.

**Table 6 | Pedestrian crossing provisions**

Road	TfNSW warrant requirements	Proposed by Applicant	Approved by DPE
<b>Forestwood Drive</b>	No requirement for Children's Crossing or Zebra Pedestrian Crossing (raised or at-grade).	Pedestrian Crossing (Zebra) at-grade with fencing to imitate blister kerbs on the northern side of the roadway.	Pedestrian Crossing (Zebra)
<b>Darug Avenue</b>	No requirement for Zebra Pedestrian Crossing (raised or at-grade). Children's Crossing is required.	Pedestrian Crossing (Zebra) at-grade with Children's Crossing flags, line marking and fencing on both sides of the roadway to imitate blister kerbs.	Pedestrian Crossing (Zebra) at-grade with Children's Crossing flags and line marking as required by Australian Standards. Required a TfNSW crossing supervisor. <i>Note: The use of fencing is not supported at this intersection.</i>

The Applicant proposes to work with Council to develop a solution when the crossing is submitted to Council under the Roads Act. Accordingly, the Department has recommended a condition requiring the Applicant to submit plans and technical specifications to the satisfaction of the road authority for both Darug Avenue and Forestwood Drive crossings. The recommended condition ensures that safe and suitable pedestrian crossings would be provided for the proposal through further design development with Council and through the provision of crossing supervisors.

### 6.1.2 Flood Levels and Flood Emergency Response Plan

In the EIS, the Flood Impact Assessment Report noted that the Overland Flow Flood Study was being updated and that revised modelling would be provided as part of the RtS.

During agency consultation, Council requested that the updated flood modelling include ground survey data to capture gutter depths and LiDAR data. In addition, Council requested that the updated study be submitted to Council for review. EESG requested a review of the flood level contours presented in the Report because a figure displayed flood levels 20m+ above the ground level at the site. EESG also requested that safety measures be implemented to ensure the safety of the school community accessing the school in response to the high flood hazard rating during the PMF on the streets around the school.

The Applicant responded to Council's comments by confirming that ground survey data was included in the modelling and that the updated study confirmed that the development would not have adverse



impacts during the 1% AEP event, but would result in shallow overland flow paths with a low hazard rating. The Applicant did not specifically outline how it had responded to EESG's comments.

The Department sought clarification from the Applicant to confirm that the flood level contours in the figure that was identified by EESG were made in error and the Applicant has acknowledged the error. The Department is satisfied that the levels presented in the Figure were incorrect, as the Figure which contains the error also includes the expected flood depths from TUFLOW grid modelling and the flood contour levels in the north-western portion of the figure are of a similar height when compared with other figures within the Update Flood Impact Assessment (Appendix M of the RtS).

The Department considers that whilst the site is not impacted by significant flood characteristics, the need for an emergency response plan for access to and from the school is necessary due to the nature of the development and the predicted overland flooding within the road corridor. Therefore, a condition has been prepared that requires the Applicant to prepare and implement an Operational Flood Emergency Management Plan (OFEMP) prior to the commencement of operation. The OFEMP would be required to detail the assembly points, evacuation routes and refuge protocols. The OFEMP would provide staff and school parents a safe and suitable way to manage evacuation and assembly during the operation of the project.

## **6.2 Traffic and Transport**

The EIS included a Traffic and Transport Assessment (TTA) that detailed and assessed the traffic impacts and measures to manage the traffic (both vehicle and active transport) generated by the development. Works associated with the proposal include:

- at-grade pedestrian crossings of Darug Avenue and Forestwood Drive
- pick-up and drop off spaces along Forestwood Drive and Deerubbin Drive, with accessible spaces provided along Deerubbin Drive
- formalisation of existing bus stop into a bus bay
- 64 bike and 80 scooter parking spaces for students and six spaces for staff
- provision of 15min parking along the eastern edge of Darug Avenue and a portion of Forestwood Drive,
- the construction of a staff car park with 17 spaces (inclusive of two accessible parking spaces), and
- a waste collection area accessible via Deerubbin Drive to allow for on-site waste collection.

### **6.2.1 Construction Traffic**

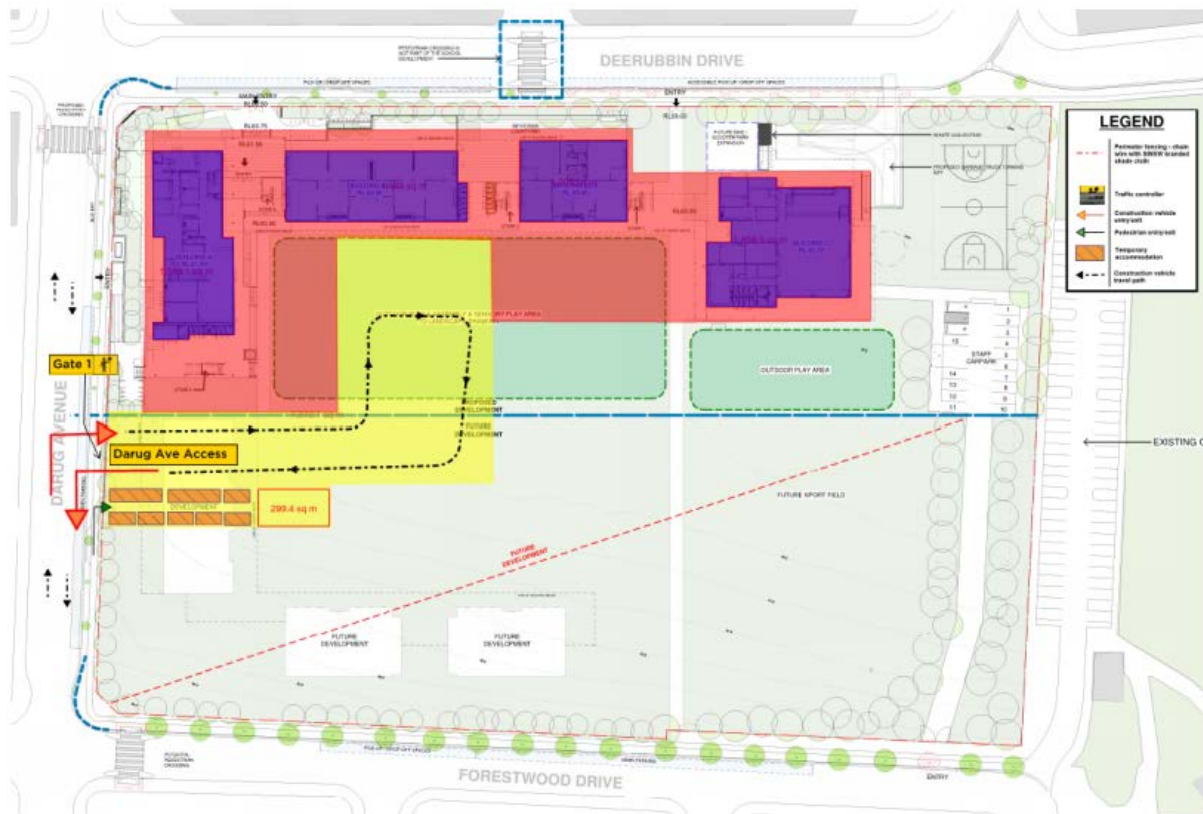
In response to the construction of the mixed-use development to the north of the site (DA19/0348), the Applicant has proposed that construction vehicles would access the site via Darug Avenue to reduce conflicts between construction vehicles for this proposal and those accessing the mixed-use development site.

The Applicant provided a Preliminary Construction Traffic and Pedestrian Management Plan (PCTPMP) as part of the EIS which outlines:

- the current road and pedestrian network in the vicinity of the site,
- heavy vehicle access routes,

- swept path assessments, and
- traffic control measures.

The Applicant has also committed to preparing a Construction Traffic Management Plan which would provide details of how construction traffic for the proposal would be managed.



**Figure 17 | Proposed construction vehicle access (Source: Applicant's EIS)**

Council and TfNSW provided comments on the PCTPMP. Council requested that a dilapidation report of the proposed construction routes be prepared prior to construction and that any installation of road signage be submitted to the Local Traffic Committee for approval. TfNSW noted:

- the need for traffic controllers to manage traffic flows in both directions on Darug Avenue,
- the use of smaller construction vehicles due to undesirable swept paths at the intersection of Bradley Street/Darug Avenue which would result in conflicts with other road users,

In response, the Applicant's RtS advised that:

- the requirement to prepare a dilapidation report was noted
- whilst vehicles accessing the site would be required to give way to southbound traffic, the CTMP would include an additional traffic controller on Darug Avenue
- the swept paths of Bradley Street/Darug Avenue intersection in the PCTPMP displayed the simultaneous movement of two trucks. In response to TfNSW's concerns, the Applicant stated that the two movements at the intersection traffic controllers would be installed at the southbound approach on Darug Avenue and the westbound approach on Bradley Street (as shown in **Figure 18**).



**Figure 18 | Revised swept paths at the intersection (Source: Applicant's RtS)**

The Department has reviewed the PCTPMP and is satisfied that the proposed management of construction traffic accessing the site is suitable. However, the lack of detail regarding the expected construction traffic volumes or parking either on-site or on local roads requires the preparation of a detailed Construction Traffic Management Plan prior to the commencement of construction. The Department has recommended a condition that requires the preparation of a Construction Worker Parking Survey to manage and minimise the impacts of construction worker parking.

### 6.2.2 Operational parking

The proposal provides 17 car parking spaces, including 2 accessible spaces. The Applicant has justified the number of spaces based on the small enrolment area of the school, which would encourage staff, students and parents to choose active transport modes. The TTA considered relevant guidelines and DCPs to determine the parking provision for the site. The report noted that Council's DCP does not outline parking requirements for school developments and that where there are no specific parking requirements, the RTA's "Guide to Traffic Generating Developments" (as updated) and Australian Standard AS 2890.1 and 2 - 2004 should be used as a guide. However, this guide does not provide parking rates for school developments.

Council commented that the proposal should include the parking capacity for the future second stage of the school development and that accessible pick-up and drop-off areas should be provided on site rather than on Deerubbin Drive. The Applicant responded by advising feedback provided by Council prior to the submission of the EIS indicated that Council whilst preferring accessible parking onsite, would be satisfied with the provision of kerbside accessible parking.

On balance, the Department considers that the parking provision is suitable for the proposed capacity and agrees that surplus parking within the site would result in a reduction of outdoor play space and may promote undesirable travel behaviours. However, to ensure that potential impacts on surrounding streets are managed, the Department has recommended that a detailed STP be prepared which includes a review of parking demands and impacts on local streets, including any complaints made.

### 6.2.3 Operational traffic and transport

The Applicant undertook traffic modelling to identify the impacts of operational traffic on the surrounding road network and detailed the outcomes in the TTA. The modelling confirmed that the intersections around the site would continue to operate at a Level of Service A (<14 seconds per vehicle delay) up to and including the scenario of 10 years after opening (including vehicle movements from the second stage of the school – subject to separate planning approval).

The TTA also outlined mode share targets outlining the various modes of transport that students would use to get to the site and provided a School Transport Plan which outlined measures that would encourage parents, students and staff to shift away from private vehicle usage and to various modes of active transport. The targets outlined in the TTA were:

- 15% walking
- 35% cycling or scooting
- 10% public transport, and
- 40% driving.

Council's submission and advice received from TfNSW both queried whether the proposed targets would be achievable and requested that the Applicant undertake a comparison of the mode share schools levels currently being achieved by schools in the local area. The Department in its letter outlining the key issues to be addressed in the RtS reinforced the importance of the Applicant undertaking a comparison of other schools in the area with similar characteristics.

In the RtS, the Applicant did not provide a comparison of other schools but rather stated that the proposed School Transport Plan and Travel Coordinator would ensure the delivery of the mode share targets and provided a breakdown of the distance from the school the students would be travelling from, with 35% of students expected to be within 800m of the school.

The Department requested further information in December 2021 to confirm that mode share targets proposed would be achievable based on data from other schools and to address concerns raised by Council and TfNSW during the exhibition period. The Applicant responded to the request for further information stating that it had not commenced any comparison work and would not be able to until school commenced in 2022, did not have any data from schools in the area with similar characteristics and that undertaking surveys of schools without School Transport Plans would not be a useful consideration.

The Department acknowledges the factors that were raised by the Applicant and the measures proposed in the School Transport Plan to encourage students to use a variety of modes of active transport. However, to address the concerns raised in submissions, the Department has recommended a condition requiring a School Transport Plan be prepared and submitted to the Planning Secretary for approval. In addition to this, the condition will also require the Applicant to monitor the mode share breakdown and to update the School Transport Plan if the targets are not being met.

## 6.3 Built Form and Urban Design

The site is surrounded by low density residential to the south and west of the site and by a four-storey development to the northeast of the site. Future development to the north of the site will also feature two four-storey buildings.

The proposed built form and urban design appears sympathetic to the low density residential context and surrounding development. The site planning provides good aspect for the learning areas and for maximising light to play areas. The school has been designed to fit into the surrounding built-form, the proposed buildings are below the height limit of the developments surrounding the site. The proposal has been designed to provide accessible and inclusive paths of travel from the site boundaries up to and around the school buildings and incorporates wayfinding signage identifying key areas within the school assisting visitors to navigate the site.

The Applicant states that the site layout and design seek to:

- arrange the two learning villages around the assembly area as a meeting point, drawing design inspiration from the area being recorded as a meeting point for the Darug and Gandangara nations,
- cite buildings to create a civic hub along Deerubbin Drive and respond to the existing buildings around the school and the proposed mixed-use site to the north of Deerubbin Drive,
- provide two layers of fencing, the first being 2.1m high as a boundary fence, and a second to create a boundary where students can be supervised

During the assessment process, the Applicant responded to issues raised by the Government Architect NSW and Council to improve the overall design of the proposal. The following design issues were resolved during assessment of the application:

- Connecting with Country,
- fencing around the site,
- the location and design of the waste access point off Deerubbin Drive, and
- landscaping and open space.

### 6.3.1 Connecting with Country

The proposal was subject to the State Design Review Panel (SDRP) process and met with the panel twice, once before the submission of the EIS and once before the submission of the RtS. During the first meeting, the SDRP highlighted:

- the need for the proposal to integrate Indigenous landscaping components into the overall design, rather than discrete design features
- that the bush tucker garden should be developed in consultation with local Aboriginal groups, and
- the opportunities for design to reflect the importance of water in local Aboriginal culture and the presence of watercourses on the site.

During the second SDRP, the Panel raised concerns that the proposal had not followed the Draft Connecting with Country Framework (NSW Government Architect 2020) and recommended:



- a close reading of the Framework to integrate the importance of country into the project at the late design stages associated with the RtS, and
- that consultation with the local Indigenous community be expedited to ensure their input is provided in the overall design, and specific elements (such as yarning circles).

The Applicant provided a detailed summary of the consultation undertaken and proposed design changes in response to the comments made by the SDRP and in response to a request for further information letter that was issued by the Department on the 19<sup>th</sup> of November 2021.

The Applicant made the following design changes in response to the consultation undertaken with local Aboriginal groups:

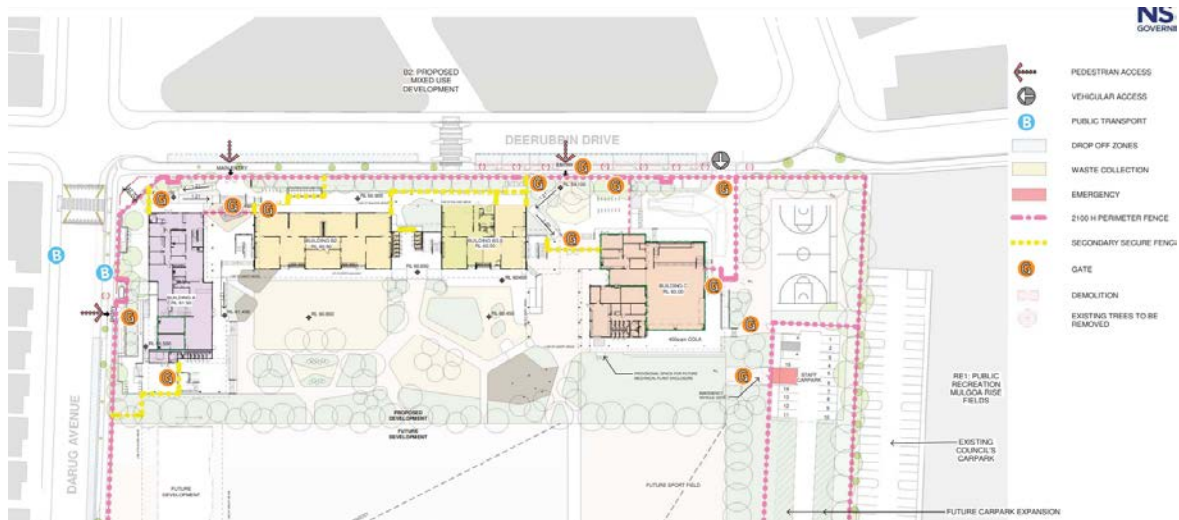
- the inclusion of an arrival stone with a Welcome to Country statement to the land of the Mulgoa clan of the Darug, including the emblem of a black swan, handprints and the story of the Mulgo (Black Swan),
- native edible gardens to encourage education of the importance of native flora and fauna in the Australian landscape,
- interpretive line marking to reference the watercourses as a wayfinding tool, and the inclusion spaces for Indigenous outdoor games
- incorporation of local significant fauna on softfall play areas,
- the provision of a sandstone trail through the vegetation swale on the south of the site to provide habitat spaces for local fauna and as an educational tool to demonstrate the flow of water through the site,
- the use of natural and neutral colours to reflect the surrounding natural elements,
- interpretive storytelling, sculptures and water themes across the site and habitat structures, and
- the naming of school buildings to recognise the various nations around the site and the nations of which some students may be from.

The Government Architect NSW noted the lost opportunity to integrate Connecting with Country design in earlier stages of the proposal design (such as masterplan and architectural decision) but was supportive of the consultation and design changes that had resulted. The Department is supportive of the design changes that have been made.

### 6.3.2 Design and Appearance

#### *Fencing*

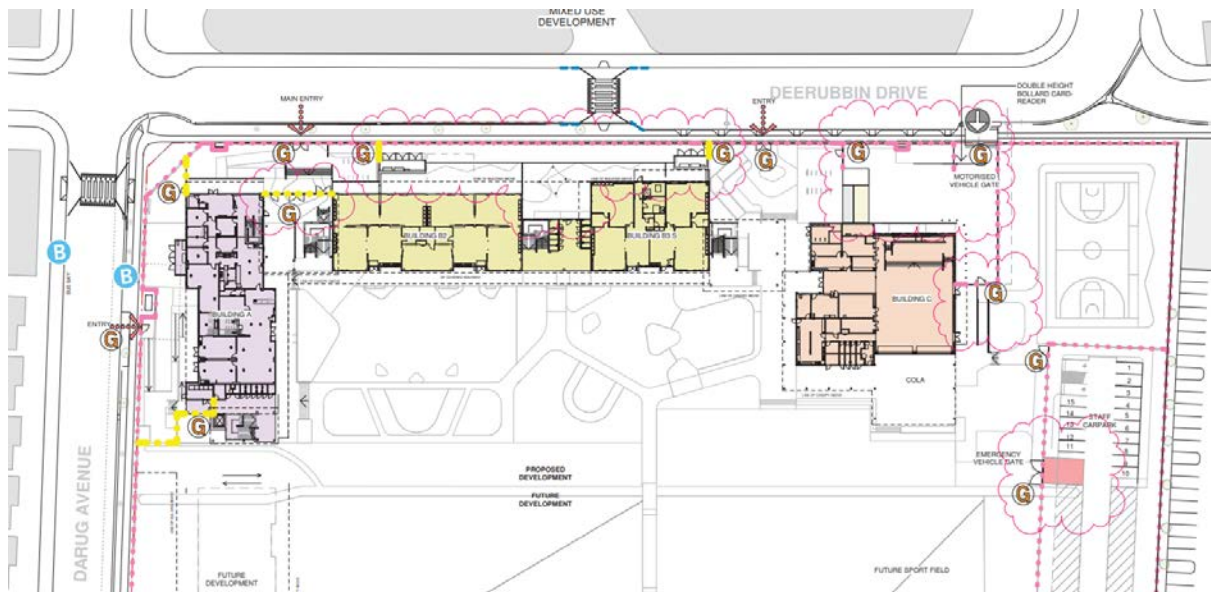
The Architectural Plans submitted as part of the EIS showed that there would be significant secondary fencing provided behind the main perimeter fencing (as shown in yellow in **Figure 19**).



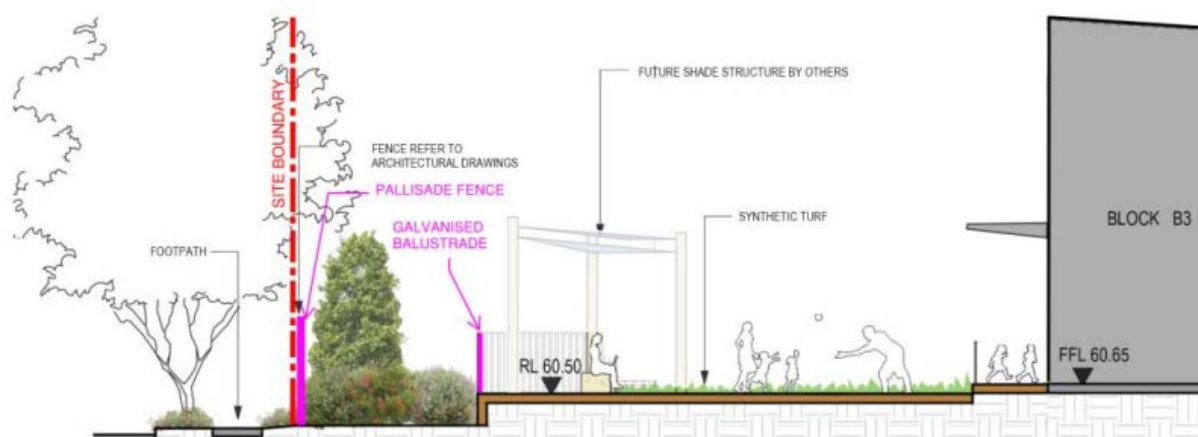
**Figure 19 | Site Access and Security Plan (Source: Applicant's EIS)**

The SDRP raised concerns with the duplication of fencing and requested that the fencing around the site was simplified and that the role and size of spaces between the street and fencing be reviewed, with the aim of having a single line of security around the site.

In the RtS, the Applicant undertook further design refinement and was able to reduce a significant amount of the secondary fencing (as shown in **Figure 20**) and provide improved integration.



**Figure 20 | Revised Site Access and Security Plan (Source: Applicant's RtS)**



**Figure 21 | Revised fencing section diagram (Source: Applicant's RtS)**

The Department is supportive of the revised fencing and the rationalisation of the built form using balustrades to manage safety at the areas of elevation change. The fencing proposed provides a safe and secure school environment and improved integration and visual amenity.

The continued management and maintenance of the vegetation within these areas is key to the success of the interaction of the school with the community experience of the school. As such, a condition has been proposed requiring the preparation of a Landscape Management Plan to ensure the ongoing management of the vegetation and landscaping across the site.

#### ***Deerubbin Drive Access***

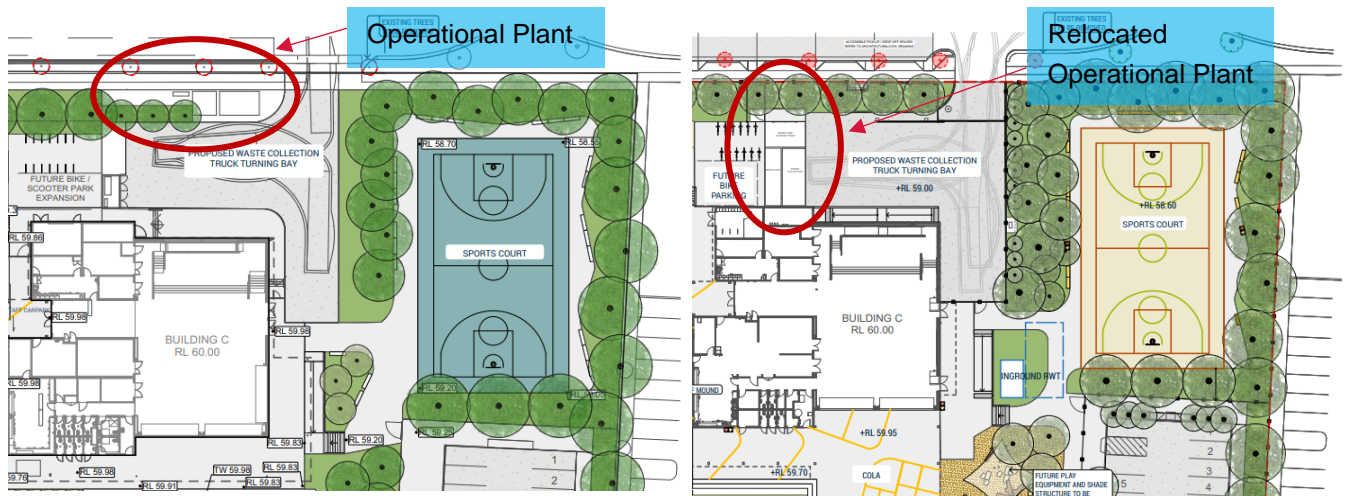
The future development along Deerubbin Drive has informed the layout of the school. The design intent for the school was to enhance the 'civic hub' by providing main entry points along the road in concert with additional tree planting to the enhance canopy coverage. The waste collection entry is proposed in the north-eastern corner of the site as it provides clear access for waste collection and separation of operational plant from the lower density streets of Darug Avenue and Forestwood Drive.

During exhibition, Council raised concerns regarding the interface of the service vehicle entry off Deerubbin Drive and the placement of operational plant (including fire hydrant pumps, plant rooms and water meter) along the fence line as it would reduce the visual and urban amenity of the area. Council requested that planting within the front setback would be critical in providing screening of the hardstand and the operational plant. GANSW also raised the location of the waste collection area as a concern as it would reduce the opportunities for the interface of the school hall with the wider community.

In response to the concerns raised regarding the placement of the waste collection facility, the Applicant revised the location of the operational plant (excluding the water meter as it is required to be located along the property boundary) to allow for additional planting along the front setback. The Applicant also provided an options analysis of the possible locations where a waste collection area could be located. The analysis demonstrated that the proposed location would be best suited due to:

- suitable placement for staff to access the area during operation;
- increased distance from both low-density residential areas and pedestrian crossings, thereby reducing the risk of reduced visual amenity and pedestrian safety; and

- the ability to provide future connections between the school site and the adjoining Council Oval when compared to the option of locating the area to the north of the proposed staff car park (accessed via Forestwood Drive).



**Figure 22 | Planting in the front setback along Deerubbin Drive (Source Left: Applicant's EIS and Source Right: Applicant's RTS)**



**Figure 23 | Landscape section of view south from Deerubbin Drive of the proposed waste collection area (Source: Applicant's RTS)**

The Department notes that the location of the waste collection area and the placement of the operational plant is influenced by a variety of factors and that in a largely low-density residential area the Applicant has sought to reduce impacts to the amenity of adjoining residents.

The Department considers the revised design of the front setback, including the relocation and design integration of the operational plant and increased street tree canopy, provides an enhanced street amenity and pedestrian experience. The location of the waste collection area is supported as it is suitably located for both operational requirements (both for staff and for future connections to Council's open space) and pedestrian safety, whilst providing improved public amenity.



### 6.3.3 Landscaping and Open Space

The site is currently cleared of vegetation and the proposal only includes the removal of street trees along Deerubbin Drive. The proposal includes sensory play areas, open play turf areas, exploratory play areas through vegetation to the south of the site, covered learning areas and a basketball court. The proposal also included a variety of landscaping responses using both local natives, non-local natives and exotic plants.

EESG recommended that all planting and landscaping both the site and the street should be done with a variety of local native species, and that they should be, where possible, of a pot-size of 100L or greater to ensure shading from day 1 of the school's operation.

In response, the Applicant has revised the planting schedule for the site and has committed to providing suitably sized plants, 100 and 75 litre pot sizes for prominent areas and 45 litres for less prominent. The Department notes EESG's intent in ensuring substantial planting from the commencement of operation. However, the Department supports the Applicant's revised planting schedule as they provide adequate screening and early canopy for the proposal. As a result, the Department has provided a condition to ensure the landscaping is carried out in accordance with the Landscape Plans provided in the RtS.

## 6.4 Other issues

The Department's consideration of other issues is provided in **Table 7**.

**Table 7** | Department's assessment of other issues

Issue	Findings	Department's consideration and recommendation
<b>School Capacity and Facilities</b>	<p>The proposal provides capacity for 414 students, with the learning spaces provided suitable for a school of 18-24 home bases. The school hall, library, staff facilities and administrative areas have been built to accommodate a school of more than 36 home bases (+1,000 students).</p> <p>Council and the SDRP raised that there would be opportunities in providing facilities for the future development at the site to avoid the duplication of facilities, including parking and playing fields which were identified as being delivered as part of a separate planning approval.</p> <p>The Applicant advised that the sports field, which was initially presented to the SDRP as part of this proposal, was removed due to funding constraints.</p>	<p>The Department is satisfied that the proposal is suitable for the needs of a school with a capacity of 414 students.</p> <p>Whilst, the Department acknowledges the need to provide suitable infrastructure for an area experiencing significant growth, including open space and parking, any future expansion of the school or to capacity would trigger a separate planning approval. The impacts of any expansion would be considered in detail at that time.</p> <p>The Department notes comments raised by Council and SDRP regarding future parking requirements and playing fields. The Department is of the view that the provision of surplus staff parking now, in anticipation of a larger capacity school, would lead to a higher uptake in private vehicle</p>

Issue	Findings	Department's consideration and recommendation
		<p>usage and would prevent opportunities for staff and students to use active transport or mode share. The Department is satisfied that the proposed mode share targets, onsite parking provision and open space is appropriate for the proposed school capacity.</p> <p>Whilst the Department would have supported the provision of the additional sports field in this proposal, it is acknowledged that the proposed outdoor play-space proposed meets the EFSG requirements imposed by SINSW, and that funding constraints have resulted in delay to delivery of the field.</p>
<b>Social Impacts</b>	<p>The EIS included a Social Impact Assessment (SIA) which identified that negative social impacts would result during construction, particularly through the introduction of construction noise and construction vehicles.</p> <p>The SIA identified positive social impacts that would be realised through the delivery of the proposal, including the introduction of more accessible education spaces and community facilities, the enhancement of public space and the improvement of community cohesion.</p>	<p>The introduction of a new school causes a change in land use and may impact the routines and current practices of residents. However, the Department is satisfied that the social benefits of the proposal outweigh the negative impacts that may be experienced during the construction phase and early operational phase as the community adjust to the new use. The Department has included conditions of consent to mitigate these impacts for surrounding residents.</p> <p>The Department is supportive of the proposed use of the school site for a variety of community uses during both weeknights, school holidays and during weekends. The operational noise impacts associated with this are addressed in the 'Operational Noise' section below.</p>
<b>Construction Noise and Vibration</b>	<p>A Noise and Vibration Assessment (NVA) was provided as part of the EIS and included an assessment of the potential noise and vibrations impacts during construction.</p> <p>The assessment identified that construction would exceed the Noise Management Level (NML) and would result in surrounding residents considered as noise affected during</p>	<p>The preparation of a CNVMP is supported and a condition requiring a CNVMP has been recommended to manage impacts, to ensure that consultation with the community is used to develop strategies for managing high impact works and to detail complaints that may arise from the impacts.</p>



Issue	Findings	Department's consideration and recommendation
	<p>standard construction hours, and highly noise affected outside of construction hours. It identified several management measures, including the need to prepare a Construction Noise and Vibration Management Plan (CNVMP) to implement the measures.</p> <p>The EPA requested that community engagement measures be included in the CNVMP and identified that alternate background levels on Darug Avenue would be required. The EPA also requested that construction be limited to the standard hours listed in the Interim Construction Noise Guideline (ICNG).</p> <p>During assessment, the Department requested that an additional monitoring location and further monitoring be undertaken to identify the impacts to receivers along Darug Avenue. The Department also requested clarification of the proposed working hours be provided due to inconsistency throughout the NVA.</p> <p>The Applicant undertook further monitoring along Darug Avenue and identified that they were consistent with the monitoring undertaken on Forestwood Drive and Glenmore Ridge Drive. It also confirmed that extended construction hours (to 5pm on Saturday) are proposed.</p>	<p>In accordance with the EPA's comments regarding the implementation of the ICNG, conditions requiring standard construction hours have been proposed. A separate condition will allow for construction to occur between 6-7pm on weekdays and between 1-4pm on Saturdays if the noise levels do not exceed 5db(A) above the background noise level.</p>
<b>Operational Noise</b>	<p>The NVA identifies that the operational noise sources from the proposal (building services, playground, PA system) would be compliant with noise emission targets and managed through proposed mitigation measures.</p> <p>The NVA notes that there may be rare instances where out-of-hours activities would extend beyond 10pm and would be limited to speeches (no musical events recommended), and all external windows and doors would be closed (including the bifold doors in the Hall).</p> <p>The EPA's advice recommends that the restriction of the use of the School Hall for appropriate activities at appropriate times to minimise unacceptable impacts to surrounding receivers. The EPA also noted that noise from normal activities would not be significant.</p>	<p>The Department is satisfied that operational noise impacts will be able to be managed through the measures proposed in the assessment documentation and the proposed conditions.</p> <p>To address inconsistencies between the RTS and the Noise and Vibration Assessment provided with the RTS, conditions have been recommended that the out-of-hours operation of the site be undertaken in accordance with an Out of Hours Event Management Plan for both school events and community use to ensure that impacts to the surrounding receivers during out of hours use of the site are acceptable.</p>

Issue	Findings	Department's consideration and recommendation
	<p>During assessment, the Department sought additional information regarding the times and buildings that would be available to the community.</p> <p>The Applicant in its RTS identified that community use would be confined to the school hall and the library and would be limited to finishes at 10pm. However, the noise assessment provided as Appendix J of the RtS states that there may be rare scenarios where community and school use would extend beyond 10pm.</p>	
<b>Contamination</b>	<p>The EIS included a Soil and Water Assessment, a Preliminary Site Investigation (PSI) and a Detailed Site Investigation (DSI) which had been undertaken to identify any contamination on the site. The site was formerly a quarry that was rehabilitated with imported fill.</p> <p>The PSI and DSI identified that there would be a low potential for unexpected contamination finds, that contamination that would pose a risk to the development was not identified and that remediation or further investigation was not required.</p> <p>A site inspection after the completion of the PSI and DSI identified unexpected non-friable asbestos containing material in the north-eastern and east of the site. The source of the material was identified as possible tipping, or debris from trucks parking on the site after the completion of the DSI.</p> <p>The Applicant proposed measures to remove the unexpected find from the site, obtain an asbestos clearance certificate from a suitably qualified professional, asbestos quantification sampling, and the preparation of a Supplementary Asbestos Investigation Report.</p>	<p>The Department supports the approach outlined by the Applicant in managing the unexpected find following the completion of the DSI.</p> <p>To ensure the contamination risks are suitably addressed and that the site is suitable for the proposed use, a condition has been prepared to require a Supplementary Asbestos Investigation Report to be prepared and to be provided to the Planning Secretary for information. The Certifier must also be satisfied that all unexpected asbestos containing material has been removed before construction commences.</p>
<b>Geotechnical Impacts</b>	<p>The EIS included several structural engineering assessments, including the Structural Engineering Schematic Design Report, Geotechnical Investigation results, and Geotechnical Opinions.</p> <p>The site is a former quarry that has been remediated. Given this, there is a risk of structural cracking if the building</p>	<p>The proposed mitigation measures and assessment is supported by the Department.</p> <p>To ensure the foundations of the buildings have been adequately installed, a condition has been proposed to require that the installation of building foundations be supervised by a suitably experienced practitioner, and that a</p>

Issue	Findings	Department's consideration and recommendation
	<p>foundations are not piled into the bedrock.</p> <p>Council noted the possible risks to the foundations of future buildings on the site and requested that a Site Classification Report be prepared to demonstrate that the proposed slabs and foundations have been designed to address the ground conditions.</p> <p>The Department sought advice from the NSW Chief Engineer regarding the geotechnical impacts and advised that the impacts had adequately been considered and recommended measures to manage the piling of foundations. The NSW Chief engineer also recommended enhancements to conditions to ensure geotechnical risks are managed.</p>	<p>report be prepared within 3 months of the completion of foundation works to confirm that the building piles have been piled into the bedrock. The NSW Chief Engineer has reviewed the conditions and is satisfied that the conditions applied to the proposal suitably manage geotechnical risk.</p>
<b>Stormwater Management</b>	<p>The EIS included a civil engineering schematic design report which outlined the stormwater drainage characteristics of the site, the proposed stormwater drainage system, on-site detention, and water-sensitive urban design.</p> <p>The proposal includes an in-ground pit and pipe gravity system to accommodate 1 in 20-year storm flows, with overland flow paths around the buildings toward Deerubbin Drive during 1 in 100-year storm events. No on-site detention is proposed; however rainwater reuse, grassed swales and buffer strips are proposed.</p> <p>Ongoing management and maintenance of the stormwater system was proposed to ensure the success and viability of the stormwater management system.</p> <p>Council did not raise concerns with the proposed stormwater management and noted the discharge of stormwater into pipes along the northern boundary of the site that were delivered as part of the initial subdivision. Council also requested in both submissions on the EIS and RtS that stormwater management during construction be compliant with "Managing Urban Stormwater Soils and Construction" 4<sup>th</sup> ed. (Blue Book).</p>	<p>The Department is satisfied that the proposed stormwater management measures would be suitable for implementation during construction and operation.</p> <p>Conditions have been proposed to enhance the management of construction and operation, including a detailed Construction Environmental Management Plan (CEMP), requirements for the design of the operational stormwater management system and connection to Council's drainage system, and a Stormwater Operation and Maintenance Plan.</p>
<b>Sediment, erosion, and dust control</b>	<p>The EIS included an Erosion and Sediment Control Plan which details the proposed location of a temporary</p>	<p>The Department is satisfied that appropriate erosion, sediment and dust control measures can be</p>

Issue	Findings	Department's consideration and recommendation
	sediment basin, diversion swales, silt fence and stockpiles in accordance with the Blue Book.	implemented during construction and has recommended a condition requiring the preparation of a detailed CEMP prior to the commencement of construction.

## 7 Evaluation

The Department has reviewed the EIS, RtS and assessed the merits of the proposal, taking into consideration advice from the public authorities, including Council. Issues raised in public submissions have been considered and all environmental issues associated with the proposal have been thoroughly addressed. The Department concludes that the impacts of the development are acceptable and can be mitigated through the recommended conditions of consent. Consequently, the Department considers the development is in the public interest and should be approved subject to conditions.

The proposal is consistent with the objects of the *Environmental Planning and Assessment Act 1979* and the State's strategic planning objectives for the site set out in the Greater Sydney Region Plan - A Metropolis of Three Cities and the Greater Sydney Commission's Western City District Plan. The proposal would provide much needed improved and expanded school infrastructure located near existing public transport and includes opportunities to co-share facilities with the community.

The proposal is suitable for the site and the impacts of the proposal are considered satisfactory on balance in the context of the benefits for the local community and the provision of a local education facility within a newly developed area. The form, scale and design of the proposed buildings are appropriate for the site and its context. Flooding impacts, traffic and transport and other matters have been appropriately addressed through amendments and commitments of the Applicant as well as the Department's recommended conditions of consent. Construction impacts have been considered and appropriate mitigation measures and conditions have been proposed.

The development is consistent with the objects of the EP&A Act and with the state's strategic objectives as it would improve education results through the provision of a new education facility in an area that is undergoing population growth.

The development is in the public interest as it would provide benefits including:

- increased educational facilities to cater for growth in the Penrith LGA,
- provision of new education facilities in an accessible area for the community,
- investment of \$34,987,675 to deliver 144 construction jobs and 27 operational jobs

Consequently, the Department considers the development is in the public interest and should be approved.

## 8 Recommendation

It is recommended that the Director, Regional Assessments, as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report.
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to grant consent to the application.
- **agrees** with the key reasons for approval listed in the notice of decision.
- **grants consent** for the application in respect of Mulgoa Rise Public School (SSD 11070211), subject to the conditions.
- **signs** the attached development consent and recommended conditions of consent (see attachment).

Recommended by:



**Jonathan Kerr**  
A/Senior Planning Officer  
Regional Assessments

Recommended by:



**Louise Starkey**  
Team Leader  
Regional Assessments



## 9 Determination

The recommendation is **Adopted** by:



18/03/2022

**Keiran Thomas**

Director

Regional Assessments

# Appendices

## Appendix A – List of referenced documents

The following supporting documents and supporting information to this assessment report can be found on the Department of Planning and Environment's website as follows.

1. Environmental Impact Statement  
<https://www.planningportal.nsw.gov.au/major-projects/project/40606>
2. Submissions  
<https://www.planningportal.nsw.gov.au/major-projects/project/40606>
3. Applicant's Response to Submissions  
<https://www.planningportal.nsw.gov.au/major-projects/project/40606>
4. Applicant's Response to Submissions Supplementary information  
<https://www.planningportal.nsw.gov.au/major-projects/project/40606>

## Appendix B – Statutory Considerations

### ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)

To satisfy the requirements of section 4.15(a)(i) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), this report includes references to the provisions of the EPIs that govern the carrying out of the project and have been taken into consideration in the Department's environmental assessment.

Controls considered as part of the assessment of the proposal are:

- State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)
- State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)
- State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (Education SEPP)
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)
- State Environmental Planning Policy No. 64 – Advertising Structures and Signage (SEPP 64)
- Draft State Environmental Planning Policy (Remediation of Land) (Draft Remediation SEPP)
- Draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities) (Draft Education SEPP)
- Draft State Environmental Planning Policy (Environment) (Draft Environment SEPP)
- Penrith Local Environmental Plan (PLEP) 2010.

### COMPLIANCE WITH CONTROLS

#### State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)

The aims of this SEPP are to identify state significant development (SSD) and state significant infrastructure and confer the necessary functions to joint regional planning panels to determine development applications.

An assessment of the development against the relevant considerations of the SRD SEPP is provided in **Table B1**.

**Table B1** | SRD SEPP compliance table

Relevant Sections	Consideration and Comments	Complies
<b>3 Aims of Policy</b> The aims of this Policy are as follows: (a) to identify development that is State significant development	The proposed development is identified as SSD.	Yes
<b>8 Declaration of State significant development: section 4.36</b> (1) Development is declared to be State significant development for the purposes of the Act if: a) the development on the land concerned is, by the operation of an environmental planning instrument, not permissible without development consent under Part 4 of the Act, and	The proposed development is permissible with development consent. The development is for the purpose of a new school under clause 15(1) of Schedule 1 of the SRD SEPP.	Yes

Relevant Sections	Consideration and Comments	Complies
b) the development is specified in Schedule 1 or 2.		

### **State Environmental Planning Policy (Infrastructure) 2007**

The Infrastructure SEPP aims to facilitate the effective delivery of infrastructure across the State by improving regulatory certainty and efficiency, identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and providing for consultation with relevant public authorities about certain development during the assessment process.

Educational establishments are no longer covered under the traffic generating development provisions of the Infrastructure SEPP as they are considered under the Education SEPP. Notwithstanding, the application was referred to Transport for NSW (TfNSW) for comment.

The Department has considered potential traffic impacts at **Section 6** and is satisfied the proposal would not have a significant impact on the surrounding road network. The proposal provides for appropriate vehicle access arrangements and it is considered that there would be no adverse impact on the ongoing safety and efficient operation of the adjoining classified roads, subject to conditions.

The proposal seeks the upgrade of an existing padmount substation from 315kVA to 1000kVA. In accordance with clause 45 Infrastructure SEPP, the development must be referred to the relevant electricity supply authority for comment. The application was referred to Endeavour Energy, which provided requirements for the construction of the substation. The Department is satisfied that the proposed development meets the requirements of Infrastructure SEPP. The proposal is therefore consistent with the Infrastructure SEPP given the consultation and consideration of the comments from the relevant public authorities. The Department has included suitable conditions in the recommended conditions of consent (see **Appendix C**).

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

The Education SEPP aims to simplify and standardise the approval process for child care centres, schools, TAFEs and universities while minimising impacts on surrounding areas and improving the quality of the facilities. The Education SEPP includes planning rules for where these developments can be built, which development standards can apply and constructions requirements. The application has been assessed against the relevant provisions of the Education SEPP.

Clause 42 of the Education SEPP states that Development consent may be granted for development for the purpose of a school that is state significant development even though the development would contravene a development standard imposed by this or any other environmental planning instrument under which the consent is granted.

Clause 57 of the Education SEPP requires traffic generating development that involve addition of 50 or more students to be referred to the Road and Maritime Services. The Application was referred to TfNSW (incorporating Road and Maritime Services) in accordance with this clause.

Clause 35(6)(a) requires that the design quality of the development should be evaluated in accordance with the design quality principles set out in Schedule 4. An assessment of the development against the design principles is provided in **Table B3**.

**Table B3** | Consideration of the Design Quality Principles

Design Principles	Response
Principle 1 - Context, built form and landscape	The site planning provides good aspect for the learning areas and for maximising light to play areas. The proposed buildings are below the height limit of the developments surrounding the site. The school has been designed to fit into the surrounding built-form, and is considerate of single level dwellings to the south and west, whilst also reflecting the heights of the existing and future mixed use development to the north of the site.
Principle 2 - Sustainable, efficient and durable	The proposal includes ecologically sustainable development measures (Section 4.4.3). The materials chosen are durable and require low maintenance. Bicycle parking is provided within the school site and the preliminary School Transport Plan submitted which the Environmental Impact Statement (EIS) encourages sustainable travel modes.
Principle 3 - Accessible and inclusive	The proposal has been designed to be accessible and inclusive through the provision of a lift and accessible paths of travel from the site boundaries up to and around the school buildings. The proposal incorporates wayfinding signage identifying key areas within the school assisting visitors to navigate the site. The school hall and library are to be used for community activities after school and during the weekends.
Principle 4 - Health and Safety	The design of the school buildings provides a safe and secure school environment. The proposal has considered Crime Prevention Through Environmental Design principles. The proposal would clearly delineate the pedestrian entrances into the school to allow the management of visitors to the site.
Principle 5 - Amenity	The proposal provides a variety of internal and external learning places for both formal and informal educational opportunities. The design of the proposed buildings seeks to maximise natural light and ventilation to the indoor areas of the school, while the landscaping and covered outdoor areas provide ample shaded areas for students and staff use.
Principle 6 - Whole of life, flexible, adaptable	The buildings would allow for long term flexibility through the provision of flexible formal and informal learning areas to adapt to future learning requirements.
Principle 7 - Aesthetics	The proposal offers an articulated and dynamic built form with clear entry points and wayfinding.

### State Environmental Planning Policy No. 55 - Remediation of Land

SEPP 55 aims to ensure that potential contamination issues are considered in the determination of a development application. The EIS included a contamination assessment for the site which concludes that the risk of contamination at the site is low. An addendum to the Preliminary and Detailed Site Investigation's (PSI and DSI) was provided as part of the EIS and outline that following the completion of the DSI, an unexpected find of asbestos containing materials was identified in the north-eastern and eastern section of the site.



The Department recommends conditions relating to developing an unexpected find protocol to ensure measures are in place should any unanticipated contamination be found during works. In addition, a condition is recommended requiring the preparation of a Supplementary Asbestos Investigation Report to address the unexpected asbestos containing material that was identified on the site during a site visit following the completion of the DSI.

The Department is satisfied that contamination risk can be managed through conditions of consent and the mitigation measures proposed by the Applicant.

As detailed at **Section 6.4**, the Department is satisfied that the Applicant has adequately demonstrated that the site is suitable, subject to completion and verification of the removal of the existing unexpected find, for the use as an educational establishment as required by SEPP 55.

### State Environmental Planning Policy No. 64 – Advertising and Signage

SEPP 64 applies to all signage that under an EPI can be displayed with or without development consent and is visible from any public place or public reserve.

The development includes three signs. Under clause 8 of SEPP 64, consent must not be granted for any signage application unless the proposal is consistent with the objectives of the SEPP and with the assessment criteria which are contained in Schedule 1. **Table B4** demonstrates the consistency of the proposed signage with these assessment criteria.

**Table B4** | SEPP 64 Schedule 1 Compliance Table

Assessment Criteria	Compliance
<b>Character of the area</b>	
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The proposed signs are contemporary in design, would be compatible with the existing and future character of the area.
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	No particular themes exist for outdoor advertising in the area.
<b>Special areas</b>	
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The proposal does not detract from the amenity or visual quality of any special areas.
<b>Views and vistas</b>	
Does the proposal obscure or compromise important views?	No views or vistas would be impacted by the proposed signage.
Does the proposal dominate the skyline and reduce the quality of vistas?	The proposed signs would not dominate the skyline and would not impact the quality of any views or vistas.

Assessment Criteria	Compliance
Does the proposal respect the viewing rights of other advertisers?	Proposed signs would not impact on existing views experienced by others or existing advertising rights.
<b>Streetscape, setting or landscape</b>	
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The scale of the proposed signs would be appropriate
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The signs would complement the school design and contribute to the visual interest of the streetscape
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The signs are simple in design and would not result in visual clutter.
Does the proposal screen unsightliness?	The signs have been designed in keeping with the site's educational establishment use.
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The signs would sit well below the height of proposed adjoining buildings and trees.
Does the proposal require ongoing vegetation management?	No vegetation management is required by the proposed signs.
<b>Site and building</b>	
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The signs are of appropriate scale and proportion and is considered relatively understated in the context of the entire site.
Does the proposal respect important features of the site or building, or both?	The sign is appropriately located at the site entrance and would not impact on any other important features of the site.
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposed signs have been appropriately located to fit in with the design of the proposed buildings.
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	Safety devices are not necessary for the proposed design of the sign/s.
<b>Illumination</b>	
Would illumination result in unacceptable glare?	No, the proposed LED-illuminated sign would not result in unacceptable glare and will be operated in accordance with relevant Australia Standards.
Would illumination affect safety for pedestrians, vehicles or aircraft?	No, the illumination is minor and would not cause any safety concerns.
Would illumination detract from the amenity of any residence or other form of accommodation?	No, the illumination is minor and would not detract from the amenity of any nearby residences.

Assessment Criteria	Compliance
Can the intensity of the illumination be adjusted, if necessary?	Adjustment is considered unnecessary
Is the illumination subject to a curfew?	No curfew is proposed.
<b>Safety</b>	
Would the proposal reduce safety for pedestrians, particularly children, by obscuring sightlines from public areas?	No. Extensive views of the footpath and entrance area would still be available.
Would the proposal reduce safety for any public road?	The design and location of the proposed signage would not impact on safety of any public road.

### **Draft State Environmental Planning Policy (Remediation of Land)**

The Draft Remediation SEPP will retain the overarching objective of SEPP 55 promoting the remediation of contaminated land to reduce the risk of potential harm to human health or the environment.

Additionally, the provisions of the Draft Remediation SEPP require all remediation work carried out without development consent to be reviewed and certified by a certified contaminated land consultant. Remediation work is to be categorised based on the scale, risk and complexity of the work. Environmental management plans relating to post-remediation management of sites, including the ongoing operation, maintenance and management of on-site remediation measures (such as a containment cell) are to be provided to Council.

The Department is satisfied that the proposal will be consistent with the objectives of the Draft Remediation SEPP.

### **Draft State Environmental Planning Policy (Environment)**

The Draft Environment SEPP is a consolidated SEPP which proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property. Once adopted, the Draft Environment SEPP will replace seven existing SEPPs. The proposed SEPP will provide a consistent level of environmental protection to that which is currently delivered under the existing SEPPs. Where existing provisions are outdated, no longer relevant or duplicated by other parts of the planning system, they will be repealed.

Given that the proposal is consistent with the provisions of the existing SEPPs that are applicable, the Department concludes that the proposed development will generally be consistent with the provisions of the Draft Environment SEPP.

### **Draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities)**

The Draft Education SEPP will retain the overarching objectives of the Education SEPP to facilitate the effective delivery of educational establishments and child care facilities across the state.

The provisions of the Draft Education SEPP aim to improve the operation, efficiency and usability of the Education SEPP and to streamline the planning pathway for schools, TAFEs and universities that seek to build new facilities and improve existing ones. The Explanation of Intended Effects was

exhibited from 20 November 2020 to 17 December 2020 and proposes changes to the threshold triggers for SSD under the SRD SEPP, specifically for schools and tertiary institutions.

The Department is satisfied that the proposal is generally consistent with the objectives of the Draft Education SEPP and would continue to meet the requirements for SSD in accordance with the Explanation of Intended Effect.

### Penrith Local Environmental Plan (PLEP) 2010

The PLEP 2010 aims to encourage the development of housing, employment, infrastructure and community services to meet the needs of the existing and future residents of the Penrith LGA. The PLEP 2010 also aims to conserve and protect natural resources and foster economic, environmental and social well-being.

The Department has consulted with Council throughout the assessment process and has considered all relevant provisions of the PLEP 2010 and those matters raised by Council in its assessment of the development (refer to **Section 5**). The Department concludes the development is consistent with the relevant provisions of the PLEP 2010. Consideration of the relevant clauses of the PLEP 2010 is provided in **Table B5**.

**Table B5** | Consideration of the PLEP 2010

PLEP 2010	Department Comment/Assessment
Land Use Table – Zone R1 General Residential	Education Establishments are not permissible with consent in the R1 General Residential zone.
Clause 4.3 Building height	The site is subject to a maximum building height of 15m. The proposal is for a maximum building height of 10.4m.
Glenmore Park Stage 2	The proposal provides a transition of lot sizes between the urban areas of Glenmore Park and the nearby Mulgoa Nature Reserve, and the site has been suitably rehabilitated for urban development.

### Other policies

In accordance with clause 11 of the SRD SEPP, Development Control Plans do not apply to state significant development.

## Appendix C – Recommended Instrument of Consent