

Notice of decision

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

Application type	State significant development
Application number and project name	SSD-8845345 Budawang School for Specific Purposes
Applicant	DEPARTMENT OF EDUCATION
Consent Authority	Minister for Planning and Public Spaces

Decision

The Director under delegation from the Minister for Planning and Public Spaces has, under section 4.38 of the *Environmental Planning and Assessment Act 1979* (**the Act**), granted consent to the development application subject to the recommended conditions in the instrument of consent.

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

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

Date of decision

30 September 2021

Reasons for decision

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

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

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

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

- the project would provide a range of benefits for the region and the State as a whole, including a total capital investment of \$21,450,000 and approximately 64 construction jobs and 24 operational jobs;
- the project is permissible with development consent, and is consistent with NSW Government policies including the
 - Illawarra Shoalhaven Regional Plan 204
 - State Infrastructure Strategy 2018-2038
 - NSW Future Transport Strategy 2056
- the impacts on the community and the environment can be appropriately minimised, managed or offset to an acceptable level, in accordance with applicable NSW Government policies and standards; and
- the issues raised by the community during consultation and in submissions have been considered and adequately addressed through changes to the project and the recommended conditions of consent.
- weighing all relevant considerations, the project is in the public interest.

Attachment 1 – Consideration of Community Views

The Department exhibited the Environmental Impact Statement for the project from 6 May 2021 until 2 June 2021 (28 days) and received 15 community submissions. The 15 submissions included two community organisations objecting to the proposal, and one providing comments. The remaining 12 individual submissions by the public included five in objection, two in support and five providing comments.

The key issue raised by the community (including in submissions) and considered in the Department's Assessment Report and by the decision maker relate to the future use of the remainder of the lot. Other issues are addressed in detail in the Department's Assessment Report.

<i>Issue</i>	<i>Consideration</i>
<p><i>Use of the remainder of the lot</i></p> <ul style="list-style-type: none"> Multiple submissions note that the remainder of the lot should be included in the assessment. Specifically, a traffic assessment based upon a whole of lot development. Further, submissions suggest that the remainder of the lot should be development into either a high school, university, or hospital. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The Applicant wishes to retain the remainder of the lot for future educational purposes. The EIS and RtS suggest that there are no development plans or funding for the remainder of the lot at this time. The Department assessed the proposal only. Future development of the remainder of the lot would require separate development assessment. <p><i>Conditions</i></p> <ul style="list-style-type: none"> No conditions recommended.
<p><i>Overcrowding in existing school</i></p> <ul style="list-style-type: none"> Submissions raised concerns that the public school system within the Ulladulla region is overcrowded. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The Applicant has determined there is no requirement for additional high school facilities in the area at this time. <p><i>Conditions</i></p> <ul style="list-style-type: none"> No conditions recommended.
<p><i>Road upgrades and bus movements</i></p> <ul style="list-style-type: none"> Submissions suggests that road upgrades, bus movements, a bus bay and a school crossing is required, based upon 400-800 children. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The Department assessed a proposal for 56 special needs students. The Department notes it is unlikely students will walk to school and neither Council nor Transport for NSW identified a need for a dedicated school crossing. <p><i>Conditions</i></p> <ul style="list-style-type: none"> Conditions are recommended that a footpath be provided along Croobyar Road outside of the site.
<p><i>Hydrotherapy Pool</i></p> <ul style="list-style-type: none"> A submission questions whether public access will be provided to the pool and clarification is required around supervision. A submission notes that an on-site hydrotherapy building would restrict students to the school grounds instead of allowing out of school travel. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The RtS provides that community members will be allowed to access the pool outside of school hours, subject to arrangement with the school. Pool supervision details are unresolved at this stage. The Department considers that the benefit of an on-site hydrotherapy building outweighs the positives of off-site travel for students. <p><i>Conditions</i></p> <ul style="list-style-type: none"> Conditions are recommended that the hours of operation is limited to 3pm to 8pm on weekdays and 9am to 6pm on weekends.

<p><i>Reuse of school equipment</i></p> <ul style="list-style-type: none"> A submission notes that equipment from old buildings should be retained. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The submitted construction waste management plans details a minimum target of 80% for the re-use or recycling of materials. It is unlikely that furnishings such as seats or boards in the existing pre-school or building L could be re-used in the proposed school. <p><i>Conditions</i></p> <ul style="list-style-type: none"> Conditions are recommended that a waste management plan be required.
<p><i>Trees</i></p> <ul style="list-style-type: none"> A submission raises concerns with tree removal. A submission raises concerns about the lack of detail within the proposed landscape plans. A submission comments that trees take time to reach mature height. <p><i>Overdevelopment</i></p> <ul style="list-style-type: none"> A submission notes that the proposal is an overdevelopment of the proposed site area and may cause issues such as stormwater runoff, heat island effect and lack of landscaping. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The Department acknowledges the proposal aims to retain trees where possible and that the trees to be removed have been categorised as planted species. The Department does not object to proposed tree planting in the concept landscape plan with regard to species and location. It is acknowledged that tree species selected need to be appropriate for the use of an educational establishment in a mapped bush fire prone area. <p><i>Conditions</i></p> <ul style="list-style-type: none"> Conditions are recommended that a detailed landscape plan be provided with species listings. <p><i>Assessment</i></p> <ul style="list-style-type: none"> The Department notes the site area of 10,206m² is suitable for the proposed development, subject to appropriate stormwater management and tree planting. The bulk of the single storey buildings are considered acceptable as discussed in Section 6.2 of the assessment report. <p><i>Conditions</i></p> <ul style="list-style-type: none"> Conditions are recommended regarding stormwater management and tree planting.
<p><i>Building setbacks</i></p> <ul style="list-style-type: none"> A submission raises concerns with the front setback of the hydrotherapy building and its impact on the nearby heritage bakery. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The Department considers the front setback of the hydrotherapy building is acceptable, as it has been designed to provide a public interface to the school. The hydrotherapy building would be separated from the existing heritage building by approximately 38m and, at its peak height, would sit 5m lower. No adverse heritage impacts are anticipated as discussed in Section 6.3 of the assessment report. <p><i>Conditions</i></p> <ul style="list-style-type: none"> No conditions recommended.
<p><i>Construction management</i></p> <ul style="list-style-type: none"> A submission raises concerns with construction vehicles being parked on the street. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The draft CTMP provides vehicles will be contained within the site. <p><i>Conditions</i></p> <ul style="list-style-type: none"> Conditions are recommended that a CTMP be prepared prior to construction and that all construction vehicles be parked within the confines of the site.
<p><i>Signage illumination</i></p> <ul style="list-style-type: none"> A submission raises concerns with the illumination of signage after school hours 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The sign would be switched off at night. <p><i>Conditions</i></p> <ul style="list-style-type: none"> Conditions are recommended that the digital display sign not be illuminated between 6pm to 7am.

<p><i>Public consultation</i></p> <ul style="list-style-type: none"> A submission raises concerns with the community consultation. 	<p>Assessment</p> <ul style="list-style-type: none"> The Applicant states letter box drops and website updates occurred prior to lodgement of the application. The project was notified to the public (see Section 5 of the assessment report). <p>Conditions</p> <ul style="list-style-type: none"> No conditions recommended.
<p><i>Wind</i></p> <ul style="list-style-type: none"> A submission notes that the EIS does not consider strong August-October westerly winds. <p><i>Social impacts</i></p> <ul style="list-style-type: none"> A submission raises concerns with the construction of the special needs school and notes that optimal learning can be achieved through inclusive education through mainstream educational establishments. 	<p>Assessment</p> <ul style="list-style-type: none"> The proposed U-shape of the buildings is considered sufficient to provide usable outdoor play and learning areas during windy conditions. <p>Conditions</p> <ul style="list-style-type: none"> No conditions recommended. <p>Assessment</p> <ul style="list-style-type: none"> The Department assessed this application on its merits. The RtS notes: <p><i>“This is a broader policy issue rather than a specific matter for consideration under the current planning assessment. Nonetheless, advice has been received from DoE’s Disability Strategy team to assist in a response. The Disability Strategy team notes that DoE works with parents and carers to personalise support so that every student is engaged and learning to their fullest capability. For most students, this means attending their local school with individualised support. More than 85% of students with disability currently learn in mainstream classrooms in mainstream public schools. All parents and carers have a right to enrol their child in their local public school. Parents and carers are also entitled to apply to enrol their child in a support class in a mainstream school or school for specific purposes. This is consistent with the Australian Government’s interpretation of the United Nations Convention on the Rights of Persons with Disabilities Article 24, which allows the use of both mainstream education and specialist schools for persons with disability and, consequently, respects the rights of parents of children with disabilities to choose whether to put their children in mainstream or specialist education”.</i></p> <p>Conditions</p> <ul style="list-style-type: none"> No conditions recommended.