

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-8114 Lindfield Learning Village Phase 2 and 3
Applicant	Department of Education
Consent Authority	Minister for Planning and Public Spaces

Decision

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.

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

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

Date of decision

12 November 2020

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;
- the considerations under the *Threatened Species Conservation Act 1995* (TSC Act) pursuant to the Biodiversity Conservation (Savings and Transitional) Regulation 2017;
- 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. Additional reasons for making the decision are also recorded in the Department's Assessment Report.

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 improved educational facilities, \$81,025,897 total capital investment, up to 186 construction jobs and 264 full time equivalent operational jobs;
- the project is permissible with development consent and is consistent with NSW Government policies including:
 - A Metropolis of Three Cities – The Greater Sydney Region Plan;
 - State Infrastructure Strategy 2018-2038;
 - Transport for NSW's Future Transport Strategy 2056;
 - Sydney's Cycling Future 2013; and
 - North District Plan;
- 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. Conditions of consent are recommended to address key impacts associated with bush fire, traffic and access, heritage, tree protection and removal, landscaping, amenity and implementation of the drop-off/pick-up arrangements;
- the issues raised by the community during consultation and in submissions have been considered and adequately addressed through changes to the project and the recommended conditions of consent; and
- weighing all relevant considerations, the project is in the public interest.

Attachment 1 – Consideration of Community Views

The Department publicly exhibited the Phase 2 and 3 Response to Submissions (RtS) from 22 November 2019 to 18 December 2019 (27 days) and received 125 submissions. This included six submissions from public authorities providing comments (including Council), two submissions from interest groups (Dunstan Grove Owners Strata and Action for Public transport NSW) in objection and 117 submissions from the public (102 being in objection).

On 1 July 2020, the Applicant provided a Supplementary Response to Submissions (SRtS). The Department publicly notified the SRtS from 14 July 2020 to 28 July 2020 (14 days) and notices were sent to previous submitters and landowners/occupiers in the same area notified of the Phase 2 and 3 RtS. A further four submissions were received from public authorities (including Council) and six submissions from the public (three in objection).

The Department also inspected the site on a number of occasions.

The key issues raised by the community (including in submissions) and considered in the Department's Assessment Report and by the decision maker include traffic and parking, heritage, bush fire, amenity, biodiversity, landscaping, tree removal, school location, community access, consultation and stormwater. Other issues are addressed in detail in the Department's Assessment Report.

Issue	Consideration
<p><i>Traffic and parking</i></p> <ul style="list-style-type: none"> • Detrimental traffic and transport impacts associated with the internal access road, notably to properties on Dunstan Grove. • Vehicle and pedestrian safety on internal and surrounding road network. • Existing roads are insufficient to cope with increased traffic movements. • Insufficient car parking. • Additional public transport infrastructure such as a metro station should be investigated to take load off the road network. • Bus routes should be shared with other schools. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The Applicant's RtS included an updated Traffic Impact Assessment (TIA) which was supplemented by further information in the SRtS and Further Supplementary Response to Submissions (FSRtS). • In response to concerns raised in submission to the RtS, the SRtS revised the proposed internal access arrangements to remove the loop road arrangement originally proposed that would have utilised Dunstan Grove for daily school traffic. Instead, the replacement fire trail connection to Dunstan Grove would only be used in emergency situations. • The FSRtS included a concept Road Safety Audit (RSA) that identified pedestrian and vehicle safety risks on the internal access road and recommended appropriate measures to be implemented. • The Applicant has agreed to improve pedestrian infrastructure so that there is a safe and continuous path between the site and Lindfield Public School, which acts as an evacuation route and provides access to Pacific Highway, nearby bus and rail services. • Overall, the TIA concluded that the proposal with the revised access arrangements would not have detrimental impacts to the surrounding road network as there was capacity in primary routes to cater for the expected demand. The TIA identified traffic management and active transport measures to reduce potential congestion impacts. This includes provision of bicycle parking, ensuring adequate bus services and upgrades to the intersection of Pacific Highway and Grosvenor Road. • While the TIA noted that the Lady Game Drive and Grosvenor Road intersection to the west of the site is already operating near capacity, it found that Phase 2 and 3 would not further substantially impact this intersection. The TIA noted that many trips on this route would already be doing so as part of an already existing commute and that the use of alternate routes would be encouraged to minimise impacts on the intersection. • Council and Transport for New South Wales (TfNSW) reviewed the proposed development and are satisfied with the proposed upgrade to the Pacific Highway and Grosvenor Road intersection. • The Department is satisfied the local road network could reasonably accommodate the additional traffic generated by the development and that the proposed mitigation measures would alleviate strain during peak periods. The Department is also satisfied that the location of the proposed parent/carer and bus drop-off/pick-up facilities on the internal access road are appropriate and would not result in unreasonable traffic impacts. • The Department is satisfied that subject to the successful adoption of active transport measures, the 166 car parking spaces on site could adequately cater for the expected demand. • To alleviate traffic congestion and minimise parking demand, the Department supports the Applicant's commitment to promote the use of sustainable transport options. <p><i>Conditions</i></p> <ul style="list-style-type: none"> • Conditions of consent require: <ul style="list-style-type: none"> ○ a Construction Traffic and Pedestrian Management Plan be prepared in consultation with TfNSW prior to the commencement of any works. ○ a School Transport Plan to be prepared in consultation with Council and TfNSW to encourage active travel and non-private vehicular transport to the site. This is to be reviewed and monitored to ensure that parking provisions appropriately cater for Phase 2 and 3.

	<ul style="list-style-type: none"> completion of a final RSA and for the recommendations to improve safety and reduce risk be implemented prior to occupation. completion of the Pacific Highway and Grosvenor Road intersection works prior to the school population reaching 1050 students. provision of improved pedestrian infrastructure along Eton Road, subject to further consultation with Council.
<p><i>Heritage</i></p> <ul style="list-style-type: none"> Detrimental impacts to the heritage characteristics of the site (built form and landscaping). Demolition of significant internal fabric not supported. Colour scheme not appropriate. Removal of vegetation. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The Applicant's SRtS included an updated Heritage Impact Statement (HIS) and Conservation Management Plan (CMP) that assessed the proposed works against the heritage values on site. The Applicant's FSRtS provided further details addressing concerns about impacts to heritage fabric. Extensive photographic archival recording of the site has been conducted as part of the partial Phase 1 consent. Alterations and additions are primarily focused on internal areas of the main campus building. External works include a covered outdoor learning area, balustrades to internal courtyard, landscaping and egress staircase. In response to submissions, the SRtS refined the colour scheme to these external works to be in keeping with the heritage context. Heritage NSW and Council have advised the proposal as revised by the FSRtS is acceptable subject to the implementation of recommendations proposed in the HIS and associated documents. The Department accepts that the adaptive reuse of the building for the purposes of a school requires internal modifications to the building. However, impacts on significant heritage fabric would be minimal and generally reversible. The Department is generally satisfied that Phase 2 and 3 works to the built form are designed to have minimal impact on significant fabric and ensure that contemporary additions are in keeping with the heritage characteristics of the site. The Department acknowledges the loss of vegetation and associated impacts on the heritage significance of the site. However, on balance, the public benefit of the proposed school and reuse of the significant building with minimal intervention on building fabric is considered to justify the impact. <p><i>Conditions</i></p> <ul style="list-style-type: none"> Conditions of consent require: <ul style="list-style-type: none"> consultation with Heritage NSW and Council prior to works that have the potential to impact significant fabric. any works that have the potential to alter significant heritage fabric, be designed to be reversible. compliance with the construction and operational management protocols in the HIS, CMP and schedule of conservation works.
<p><i>Bush fire</i></p> <ul style="list-style-type: none"> Bush fire risk for sensitive land use. Deficiencies in bush fire modelling and technical reports. Asset Protection Zones (APZ) should be contained within the site. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The Applicant's FSRtS included a number of related amended bush fire reports and a bush fire emergency management and evacuation plan to manage and mitigate bush fire risk on the site. These rely upon a performance based solution under Planning for Bush Fire Protection 2019 comprising a package of measures, including the provision of APZs around the site, access improvements and construction that is generally in accordance with Bush Fire Attack – Flame Zone requirements. APZs were established on site to the west, north and north-east of the main campus building as part of the commencement of Phase 1 operations. Additional APZs are proposed as part of Phase 2 and 3 to the south of the main campus building. This includes additional APZs within the Lane Cove National Park approved by a license under section 151 of the <i>National Parks and Wildlife Act 1974</i>. This license allows for the ongoing management of the APZs by the Applicant. Access improvements as revised in the SRtS include a new fire trail that would pass underneath the elevated footbridge link at the western end of the main campus building. This fire trail would connect the extended internal access road with Dunstan Grove, providing access around the site for fire services. Evacuation strategies reflect those adopted for Phase 1, with students and staff to be evacuated to Lindfield Primary School on foot in the event of sufficient warning of a bush fire. Shelter in place would be utilised where this is not the case. NSW Rural Fire Service (NSW RFS) reviewed the proposal as refined by the FSRtS and advised that it was supportive of the proposal subject to compliance with the performance based solution in the bush fire reports. The Department is satisfied that Phase 2 and 3 is consistent with the aims and objectives of Planning for Bush Fire Protection 2019 and would incorporate suitable bush fire protection measures to ensure the safety of students and staff during operation of the school. <p><i>Conditions</i></p>

	<ul style="list-style-type: none"> Conditions of consent include: <ul style="list-style-type: none"> compliance with the construction and operational recommendations in the bush fire reports and bush fire emergency management and evacuation plan. improvements to footpath infrastructure along Eton Road to aid evacuation to Lindfield Public School. preparation of an updated vegetation management plan to guide implementation and continued maintenance of APZs. water, electricity and gas provided in compliance with Planning for Bush Fire Protection 2019.
Amenity <ul style="list-style-type: none"> Construction management impacts from excessive noise, traffic, dust and safety risks. Noise impacts from school operation. 	Assessment <ul style="list-style-type: none"> The Applicant's FSRTS included a Revised Noise Impact Assessment responding to concerns raised in submissions. The SRTS also included revised access arrangements to relocate school traffic to the opposite side of the site, removing potential traffic noise impacts to Dunstan Grove. The Department is satisfied that the proposed development would not have adverse acoustic or vibration impacts on the neighbouring residential developments subject to recommended conditions of consent. Conditions <ul style="list-style-type: none"> Conditions of consent include: <ul style="list-style-type: none"> operational hours for the school and community uses within the school to be restricted to stipulated times. implementation of the recommended mitigation and management measures in the Applicant's Revised Noise Impact Assessment, during construction and operation of the school.
Biodiversity, landscaping and tree removal <ul style="list-style-type: none"> Further tree removal proposed in Phases 2 and 3 adds to already significant tree loss as a result of Phase 1. Design of proposal should minimise impact on trees. Additional impact to trees should be offset. Need for use of sympathetic materials and colours. Integration of fences and gates to promote free movement within play spaces. 	Assessment <ul style="list-style-type: none"> The RTs included an Arboricultural Impact Assessment that considered the impacts of the proposed development on trees on the site and determined that a further 48 trees would need to be removed from the site. This would be in addition to the 272 that have already been removed as part of Phase 1. In response to the submissions made, the Applicant's SRTS advised that tree removal is required given the need to provide increased capacity and the highly constrained nature of the site. The Applicant advised that three trees have been identified for replanting and that an additional four trees could potentially be retained subject to consideration of bush fire compliance. An amended Biodiversity Assessment Report was submitted with the SRTS which includes an offset strategy requiring the Applicant to retire 16 ecosystem credits. The Applicant's FSRTS also confirmed that further bush fire compliant low level vegetation is provided across the site where appropriate. The SRTS included revisions to the landscape design to ensure that impediments to movements across play areas are reduced (except for where safety is prioritised) and materials/colour scheme is in keeping with the bushland setting of the site. The Department accepts that tree removal is unavoidable given the highly constrained nature of the site and need to provide increased educational facilities on the site to cater for growth in the surrounding area. The Department notes that where possible, the proposal has been designed to ensure tree retention and allow for additional planting where bush fire requirements can be complied with. Conditions <ul style="list-style-type: none"> Conditions of consent require: <ul style="list-style-type: none"> the Applicant to investigate methods and measures to plant at least four additional trees subject to consideration of bush fire compliance. implement tree protection during works. ensure landscaping is completed prior to operation. retire 16 ecosystem credits in accordance with the <i>Threatened Species Conservation Act 1995</i>. Prepare a Flora and Fauna Management Plan to minimise biodiversity impacts. maintain vegetation and landscaping on site in accordance with a landscape management plan.
School location <ul style="list-style-type: none"> Site is still not appropriate for a school. 	Assessment <ul style="list-style-type: none"> The Department notes that Phase 1 is already operational under a partial consent issued by the Department. The Department considers that Phase 2 and 3 as refined by the SRTS and FSRTS appropriately addresses and manages the bush fire, heritage, traffic/transport and amenity concerns for the site. The Department also notes that the Applicant has reviewed the Phase 1 operation to ensure that unreasonable construction or operational impacts do not occur as part of Phase 2 and 3.

	<ul style="list-style-type: none"> Subject to compliance with the recommended conditions of consent, the Department considers that Phase 2 and 3 would not have detrimental impacts to the heritage characteristics of the site or to the safety and amenity of neighbouring residences.
<i>Community Access to Facilities</i> <ul style="list-style-type: none"> Council requested that school car parking be made available for neighbouring after hours community use. 	<i>Assessment</i> <ul style="list-style-type: none"> Following Council's comments, the Applicant consulted further with Council which advised that it no longer requests the use of the car park for after-hours parking.
<i>Consultation</i> <ul style="list-style-type: none"> Limited public exhibition timeframe and inadequate community consultation by Applicant. 	<i>Assessment</i> <ul style="list-style-type: none"> The Applicant consulted the community as part of preparing the SRtS and FSRtS in addition to earlier consultation undertaken in support of the Environmental Impact Statement (EIS). The Department exhibited the EIS, Phase 2 and 3 RtS and SRtS in accordance with the requirements of the <i>Environmental Planning and Assessment Act 1979</i> and associated regulations. The Phase 2 and 3 RtS exhibition was extended in response to community requests and in consideration of the Christmas holiday period.
<i>Stormwater</i> <ul style="list-style-type: none"> Council advised that it was unclear how Water Sensitive Urban Design (WSUD) features would operate. Also, that the stormwater drainage should be designed by qualified hydraulic engineers and satisfy Council requirements. 	<i>Assessment</i> <ul style="list-style-type: none"> The Applicant's SRtS provided further details on how the WSUD features, including vegetated and bioretention swales, would connect to the existing network and reduce demands on the existing drainage network. The SRtS also identified that the existing drainage network on site has sufficient capacity to cater for Phase 2 and 3. The Department is satisfied that the proposal would not result in downstream stormwater impacts subject to conditions requiring a stormwater management system to be designed in accordance with relevant standards.