

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-11802230 Sydney Olympic Park new high school
Applicant	Department of Education
Consent Authority	Minister for Planning

Decision

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

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

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

Date of decision

14 October 2022

Reasons for decision

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

- the relevant matters listed in section 4.15 of the Act and the additional matters listed in the statutory context section of the Department's Assessment Report;
- the prescribed matters under the Environmental Planning and Assessment Regulation 2000;
- 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 amended proposal has a capital investment value (CIV) of approximately \$146,899,641 and is predicted to generate 735 future construction jobs and 59 future operational jobs.
- the amended proposal 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;
 - Central City 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. The consent authority has imposed conditions relating to operational traffic impacts, stormwater management, waste management, built form/urban design, public domain works, and management of construction impacts including traffic, parking, noise and dust;
- the issues raised by the community during consultation and in submissions have been considered and adequately addressed through changes to the project and the conditions of consent;
- engagement on the project is considered to be in line with Undertaking Engagement Guidelines for State Significant Projects, including the community participation objectives outlined in these guidelines; and
- weighing all relevant considerations, the project is in the public interest.

Attachment 1 – Consideration of Community Views

The Department publicly exhibited the Environmental Impact Statement (EIS) for the project from 14 October 2021 until 10 November 2021 (28 days) and received 20 submissions. This included eight objections, four comments (including the local Member for Parliament) and two in support from the public, three submissions in objection from special interest groups, comments from Council and two submissions from state owned companies. Advice was received from five Government Agencies.

On 10 June 2022, the Applicant submitted an Amendment Report (AR) to the proposal. The AR was publicly exhibited for a period of 14 days from 20 June 2022 to 6 July 2022 and notices were sent to previous submitters. The Department received a total of 15 additional submissions, with 11 submissions from the public (eight objections and three comments) three submissions in objection from special interest groups (two objections and one comment) and comments from Council. The special interest groups were the Wentworth Point Public School P&C Association, the Wentworth Point Residents Action Group and Billbergia Group. Advice was received from two Government Agencies.

The key issues raised by the community (including in submissions) and considered in the Department's Assessment Report and by the decision maker relate to impacts on existing approvals, non-compliance with planning controls, insufficient open play space and parking, traffic generation, relying upon external parties to deliver key infrastructure to facilitate operation, staging, public domain works, school location, shared use and impacts of reduced school capacity. Other issues are addressed in detail in the Department's Assessment Report.

<i>Issue</i>	<i>Consideration</i>
<p><i>Traffic, transport and parking</i></p> <ul style="list-style-type: none"> • Insufficient car parking provided below required rates and should be provided on-site. • The proposal would congest surrounding streets and public transport. • Cycle routes, bicycle parking weather protection and public bus service capacity should be detailed. • Travel mode shares not considered realistic and car use would still be high. • Inadequate drop-off/pick-up (DOPU) provisions and location could cause congestion into the roundabout on Burroway Road. • Street parking availability is low and the school would cause further strain. • Use of car parking spaces at Sydney Olympic Park Authority (SOPA) car park P5 are not sufficient or convenient. • Alternate car park locations are available within walking distance of the site and would be far more convenient for staff. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The Applicant's (AR) detailed that the reduced capacity of the amended proposal would reduce overall congestion and traffic generation impacts on the surrounding road network and that modelled intersections would continue to operate without significant degradation. • The Applicant's Response to Submissions (RtS) to the AR reiterated the intended use of a robust School Transport Plan (STP) to encourage sustainable transport modes to reduce car trips, review public bus transport capacity, identify best cycle routes/location of on-site weather protected bicycle parking and manage car parking arrangements. This would minimise any impacts to surrounding streets for car parking or DOPU. • The Applicant confirmed in the AR and RtS to the AR that consultation continues to occur with Transport for New South Wales (TfNSW) for bus planning provisions and to date have not been advised that insufficient capacity is available to meet the demands of the school, in addition to existing demand on the routes. • The Applicant also reiterated in the RtS to the AR that the proposed DOPU spaces would be sufficient for expected private vehicle mode share/reduced capacity of the amended proposal and that the restricted number of spaces was being used as part of a strategy to promote non-private vehicle trips, as more spaces would make it a more attractive option. • The Applicant's RtS to the AR confirmed that student car parking was not being provided as part of promoting sustainable transport options in the STP. The Applicant argues that the provision of staff car parking at SOPA car park P5 would be feasible as the spaces would be provided at no cost to staff and that direct access to and from the site was achievable via public transport. • The Applicant also reconfirmed that the constrained nature of the developable area above and below ground, meant that car parking could not be provided on-site. Due to the time restricted nature of street parking, the Applicant argued that there would be no detrimental impacts from staff who would be unlikely to utilise such provisions. • The Department has considered matters raised in submissions relating to car parking and considers: <ul style="list-style-type: none"> ○ the site is well connected by public transport, making non-private vehicle use less attractive as well as providing a direct connection from the site to car park P5. ○ ability to provide on-site car parking is limited due to the highly constrained nature of the site. ○ bus stops nearest to car park P5 can be accessed via direct routes. ○ subsidising of spaces at car park P5 means that the inconvenience of the location is offset by reducing out-of-pocket costs for staff. ○ the high density and well serviced public transport nature of the catchment means that driving age students are unlikely to drive to school. ○ a potential dedicated shuttle bus between the site and car park P5 would make the location much more attractive by providing convenience and avoiding the lack of weather protection provided from the car park to nearby bus stops or while walking and/or cycling to the site.

- the preliminary STP targets an increased sustainable travel mode share to further promote non-private vehicle travel as a more attractive and accessible option for commuting to school
- Parramatta Light Rail Stage 2 could potentially provide a connection between the school and the southern end of Hill Road (within reasonable walking distance of the car park) if car park P5 is still being used in association with the school once the Light Rail Stage 2 commences operation.
- The Department acknowledges matters raised in submissions regarding DOPU provisions that the location of the DOPU spaces near the roundabout and pedestrian crossing could cause issues regarding traffic congestion and safety. The Department considers that the provision of DOPU spaces is acceptable subject to conditions requiring the survey and investigations of the DOPU facilities once operation has commenced, and where shortfalls are identified, measures are implemented such as:
 - active on-site management and additional staffing of the DOPU zone, to provide more efficient traffic management and facilitate a higher turnover of vehicles within the area.
 - staggered start and finish times to spread the DOPU demand over a longer time period.
 - additional formalised DOPU zones (subject to relevant roads authority/landowner consent).
- Subject to conditions the Department considers that the operation and management of the DOPU facilities and car parking arrangements could be undertaken in a manner that minimised impacts to surrounding streets.

Conditions

- Conditions of consent require:
 - review of DOPU operations within six months of the student population reaching 510 students and identification actions to be taken to address any issues identified prior to any subsequent increase in student numbers.
 - completion of road safety audits and implementation of any recommendations to improve safety and reduce risk.
 - a final STP be prepared in consultation with City of Parramatta Council (Council), SOPA and TfNSW detailing how the use of car park P5 would be promoted and managed through the use of a booking system to allocate spaces, including a requirement for mechanisms to investigate the provision of a shuttle bus service from car park P5.
 - review the performance of the car parking arrangements and management measures within 12 months of the commencement of operation. Where parking demand is shown to exceed the capacity provided, the Applicant must identify measures (including improving non-private vehicle mode share and consulting car park operators to secure parking through leasing arrangements) to avoid impacts on the surrounding road network and properties.
 - preparation of a Construction Traffic and Pedestrian Management Plan prior to the commencement of any works.

Non-compliance with planning controls and approvals/subdivision patterns

- The proposal would override previous plans and approvals without sufficient alternative solutions.
- There are non-compliances with the building height and Floor Space Ratio (FSR) development controls of the Auburn Local Environmental Plan (ALEP) 2010.
- Details should be provided for street layouts buildings setbacks, and site levels consistent with the Wentworth Point Precinct Development Control Plan (WPPDCP) 2014.

Assessment

- The Applicant revised the project in the amended proposal with a minor height reduction to the six storey built form as well as reducing FSR as part of the revised hall. The amended proposal also removed all on-site conflicts with existing approvals by ensuring that no development is located where the approved Ridge Road location is.
- The Applicant in the AR and RtS to the AR argued that the non-compliances with the building height and FSR controls would be unreasonable and unnecessary as the amended proposal:
 - is consistent with the objectives of the building height and FSR controls.
 - provides for a moderate-scaled (six storey) urban form.
 - redistributes building height across the site and provides a net reduction in height.
 - the current building height control under the ALEP 2010 allows for a tall tower (up to 88m) surrounded by medium scale built form (19m and 25m). The amended school proposal includes no tower component, and therefore impacts associated with height, bulk, overshadowing and view impacts as compared to that intended under the ALEP 2010, are reduced.
 - additional GFA enables the school to accommodate the proposed student and potential future student capacity.
 - proposed façade articulation, material palette, and bulk and scale is compatible to the locality and would not have detrimental amenity or view impacts to neighbouring properties.
 - additional height would not unreasonably impact views and a view corridor to the

foreshore is maintained along the western section of the site.

- The AR and RtS to the AR provided further details for site levels demonstrating that the amended proposal would not result in excessive stepping and that modification applications proposed for the relocation of Ridge Road to the eastern boundary have been developed to account for and match school site levels.
- Where excessive changes in levels occur within the site and the Ridge Road embankment, a retaining wall with fence would be used to define this edge.
- The Applicant also argued that the amended proposal's removal of any development from the Ridge Road brings the overall development closer into compliance with the WPPDCP 2014 structure plan and any inconsistencies with setback requirements are justified due to the highly constrained nature of the site (even more so by retaining the Ridge Road reserve) and that the amended proposal generally complies with the vision and development principles.
- The Department assessed the building height and FSR non-compliances against the relevant provisions of the ALEP 2010, the Applicant's amended proposal and its justification for the variation having regard to the established principles in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009. The Department is satisfied that the 5m non-compliances would not result in detrimental impacts as they occur at the rooftop plant and lift overruns which do not create a solid wall. The amended proposal has been appropriately arranged on-site to ensure off-site bulk, scale and amenity impacts are minimised to a satisfactory level, while providing a balanced response to the need to provide for the demand for additional and improved education facilities and a built form that provides visual privacy from neighbouring towers.
- The Department considers that the setback inconsistencies with the WPPDCP 2014 are acceptable in this instance, as:
 - the departures would not result in unacceptable impacts and the amended proposal is in keeping with the high density nature of the Wentworth Point peninsula.
 - parts of the eastern and Burroway Road setbacks are greater than prescribed and that all boundaries and setbacks have been designed with future access to playing fields and roads in mind.
 - setbacks along Burroway Road and the peninsula as a whole are not consistent.
 - the built form layout is generally consistent with the WPPDCP 2014 structure plan and public domain works such as footpath widening, and street tree planting would soften building edges.
- The Departments notes the site level information provided and considers that subject to conditions these can be appropriately managed.

Conditions

- Conditions of consent require:
 - public domain works and street tree planting to be in accordance with Council's requirements.
 - at the northeast and eastern boundaries, the school site levels be coordinated with the future eastern road finished surface levels and Burroway Road, all works including ramps and entries are to be flush with public domain levels.

Insufficient Open Space

- There is insufficient on-site open space to facilitate the expected student population.
- There is insufficient soft play areas and landscaping.
- Reliance is upon utilising external open space facilities that should be for community use.
- There would be physical and mental well-being issues for students due to a lack of access to open space.

Assessment

- The Applicant's AR revised the proposal so that only on-site open space provisions would be relied upon for student use. The overall student capacity was reduced from 1,530 to 850 to reflect this.
- The AR to the RtS reconfirmed that 6sqm of open play space would be provided per student. This falls 4sqm short of the 10sqm benchmark set out in the ESFG. The Applicant advises that in designing the play space regard was given to the ESFG management measures where the benchmark cannot be met and the GANSW Design Guide for School 2018 and State Design Review Panel comments.
- The Applicant argues that for the purposes of the amended proposal, the open play space provisions are satisfactory and would not be detrimental to students as:
 - the amended proposal provides a range of high quality open space areas and recreational facilities that can support diverse activities within the constrained site.
 - the school does not seek to commence operation with 850 students and as such the incremental increase school population in the first year would mitigate impacts regarding student access to open space.
 - upon completion and delivery of the future northern playing field, a joint use agreement would continue to be pursued by the applicant to supplement open play space provisions and provide greater than 10sqm.
 - the reduced student capacity is a solution to comply with the approved Ridge Road and when the approved has been relocated, the future northern playing field and additional on-site open space would be available for use by students.

- The Department acknowledges the matters raised in submissions and considers that the amended proposal is far from ideal, especially where only 6sqm would be available per student once capacity is met. The Department further notes the following:
 - a range of active and passive spaces are provided that respond to the context of a highly constrained site and a multi-storey high school.
 - age appropriate elements are incorporated into the landscape and open play space design and allow other year/age groups to interact.
 - the open play space features and uses have been provided in consideration to GANSW State Design Review Panel comments, the GANSW Design Guide for School 2018 and the ESFG.
 - while gathering/passive spaces are provided above ground level, these cannot be considered primary unencumbered open space as they would be roofed and would not be able to facilitate the same amenity at ground. These spaces are considered to be supplementary to the ground level open play space.
 - a further reduction to student numbers, beyond what is already proposed in the amended proposal, would be detrimental to the ability of the school to service the needs of the community and school catchment.
 - until Ridge Road has been approved to be relocated and the embankment removed, the section of the site can't be used. Once available, the additional site area provided would provide an additional 1,992sqm of open space.
 - management mechanisms could be utilised to achieve a number closer to 10sqm per student.
 - the northern boundary gate and fence treatment anticipates future use of the northern playing field and would provide a clear, direct and legible connection from the site.
- The Department considers on balance, that the proposed open play space provision is acceptable in this instance and is satisfied with the Applicant's commitments to managing open play space in a manner that would promote student well-being and that measures have been taken to ensure that when the future open space to the north is available, that agreements are entered into for use and ensure that more than 10sqm would be provided.

Conditions

- Conditions of consent require:
 - preparation of an Open Play Space Management Plan that includes measures to manage the use and access to recreation areas on site, so that once student numbers exceed 373 mechanisms are available to provide greater than 6sqm of unencumbered open space per student.
 - if within two years of commencement of operation the future northern playing field has not been completed and a joint use agreement has not been entered into between the school and the relevant owner, the Open Play Space Management Plan would need to be further updated to include management and mitigation measures developed in consultation with Council and SOPA to ensure that each student has access to 10sqm of open play space.
 - in the event that the Ridge Road embankment and base material within the site is removed through alternate planning pathways, the area can be grassed, fencing removed and used as open space for the school which would help supplement the on-site provisions and increase soft landscaping areas.

Reliance on external parties to provide infrastructure, facilities and planning proposals

- The proposal takes no accountability for the delivery of the future northern playing field and eastern road that are being relied upon for open space provisions, access and car parking.
- The future northern playing field and eastern road are subject to modifications to existing consents that apply to the land, entering into joint use agreements where the parties have not been confirmed and these variables would not be determined in time for school operation commencing.
- It is unacceptable to rely upon future, yet to be lodged, planning proposal

Assessment

- The Applicant's AR revised the proposal so that it no longer relies upon external infrastructure to service the proposal. The school capacity was reduced so that the on-site open play space provisions could be used and arrangements made with SOPA for the use of car park P5 for staff car parking.
- The Applicant has advised where the future northern playing field, eastern road area available and joint use agreements have been finalised and/or appropriately dedicated, the capacity of the school would be revisited subject to relevant planning pathways.
- The AR and RtS to the AR have been updated to bring the amended proposal closer into compliance with the relevant planning controls and WPPDCP 2014 provisions, and where non-compliances are identified additional justification has been provided.

<p>by other parties to rectify issues relating to zones, planning controls and WPPDCP 2014.</p>	
<p>Public Domain and Pedestrian Infrastructure</p> <ul style="list-style-type: none"> Public domain works, materials, street tree planting and signage is to be undertaken in accordance with Council specifications. Insufficient pedestrian infrastructure, crossing points and footpath width which will result in congestion. The Burroway Road footpath in front of the site has a pinch point adjacent to the roundabout that does not foster pedestrian movement and poses a risk to pedestrian safety. 	<p>Assessment</p> <ul style="list-style-type: none"> The Applicant's AR confirmed that all public domain works would be undertaken in accordance with Council specifications. The Applicant argues that sufficient space is available for a footpath a minimum 2.8 wide to be provided across the whole site frontage. This would be of a width that complies with access requirements. The Applicant reconfirmed in the AR and RtS to the AR that two raised zebra crossing location would be provided at either end of Wentworth Place (on Burroway Road and Footbridge Boulevard) and these would facilitate safe and efficient movement. The Department considers that the existing widest section of the footpath on site frontage in addition to the section in front of WPPS next door, demonstrates that a footpath of up to 4m could be provided when measured from the edge of the built form. This would ensure that there is sufficient space to foster the expected pedestrian movements associated with the school's STP, ensure that any safety issues adjacent to the roundabout are reduced and that there would be sufficient clearance from street tree planting. The Department also notes that part of the footpath may extend within the school site, and where this does occur that dedication may be required to Council. <p>Conditions</p> <ul style="list-style-type: none"> Conditions of consent require: <ul style="list-style-type: none"> the footpath be generally widened across the total site frontage on Burroway Road to match the existing widest footpath section. where any section of the footpath goes into the site adjacent the round about, this should be dedicated to Council, unless an agreement has been reached with Council that does not require such dedication. public domain works including footpath materials, crossovers, light pole locations and street trees (species, size and location) are undertaken in consultation and to the satisfaction of Council requirements.
<p>Sustainability</p> <ul style="list-style-type: none"> The proposal does not target an ambitious sustainability approach and the targeted 4-star Green Star rating is too low. 	<p>Assessment</p> <ul style="list-style-type: none"> The Applicant's AR provided further information to determine that the 4-star Green Star rating forms part of an overall strategy to foster a sustainable construction and operation of the school. The 4-star Green Star accreditation forms part of the baseline sustainability approach. The Applicant also stated that based on the recommended sustainable management measures for implementation during operation, the expected sustainability outcomes are expected to be further improved. The Department is satisfied that appropriate sustainability measures have been incorporated into the design, construction and operation of the project and that these measures would be utilised to further improve upon the baseline 4-star Green Star rating. <p>Conditions</p> <ul style="list-style-type: none"> Conditions of consent require: <ul style="list-style-type: none"> the Applicant demonstrate the ecologically sustainable development is being achieved by either registering for a minimum 4-star Green Star rating with the Green Building Council Australia and submit evidence of registration to the Certifier or seeking approval from the Planning Secretary for an alternative certification process.
<p>Shared community use</p> <ul style="list-style-type: none"> School facilities should be made available for shared use with the community, given the proposal's reliance on other community infrastructure Unclear how safety and criminal damage would be managed for the shared oval 	<p>Assessment</p> <ul style="list-style-type: none"> The Applicant's AR confirmed that the proposal no longer relied upon shared use of the future northern playing field and eastern road. The Applicant reconfirmed in the AR and in the RtS to the AR that no community use is currently proposed. Discussions relating to details of community and shared use of school facilities with the community and Council would occur once operation has commenced. The Applicant noted that any shared use of playing fields would be subject to separate planning pathways, but would be in accordance with the Crime Prevention Through Environmental Design report provided as part of the EIS.

<p><i>School location and construction timing</i></p> <ul style="list-style-type: none"> • The school would be better located elsewhere in the catchment as opposed at the end of an already traffic congested peninsula. • Given the school name, it would be better located in Sydney Olympic Park. • Construction and operation should not be staged as the need for student enrolments is imminent. • Needs of the community would outgrow the limited facilities provided. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The Applicant argued in the RtS to the EIS, the AR and RtS to the AR that the school location is well positioned to meet the demand for a new high school within a catchment that requires it. Currently, students must travel out of the area and the proposal would help alleviate overcrowding at these existing schools. • The high density nature of the Wentworth point peninsula maximises the potential for non-private vehicle transport to the site. • As revised by the Amended proposal, the Applicant confirmed that the construction and operation of the school would not be staged. Once operation has commenced, student numbers and cohorts would be increased incrementally and would be based on demand. • In the instance the future northern playing field, eastern road and subsequent joint use agreements have been entered into, the capacity of the school would be revisited.
<p><i>Consultation and social impacts</i></p> <ul style="list-style-type: none"> • The amended proposal has changed the application in contradiction to previous community consultation and does not meet the needs of the locality. • The reduced capacity would have significant impacts to the catchment area as demand is high for secondary school places. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The Applicant advised that it consulted Council and the community (including carefully considering submissions) as part of preparing the AR and RtS to the AR in addition to earlier consultation undertaken in support of the EIS. • The Department exhibited the EIS and AR in accordance with the requirements of the <i>Environmental Planning and Assessment Act 1979</i> and associated regulations.
<p><i>Insufficient telecommunications Infrastructure</i></p> <ul style="list-style-type: none"> • Telecommunications infrastructure in the area is poor, and the proposal will exacerbate the issue. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The Applicant's RtS to the EIS confirmed that sufficient infrastructure would be provided as schools have dedicated broadband services and infrastructure, separate to domestic NBN and/or telecommunications carrier mobile networks.