

Modification of Development Consent

Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*

As delegate of the Commission, I approve the modification of the development consent referred to in Schedule 1 and in Definitions, subject to the conditions in Schedule 2.



David Gainsford
Deputy Secretary
Development Assessment

Sydney

05/09/2023

SCHEDULE 1

Development consent: **SSD 10383** granted by the Independent Planning Commission on 14 February 2022

For the following: Redevelopment and upgrades of the Westmead Catholic Community Education Campus comprising:

- alterations to an existing school building (Mother Teresa Primary School) and change of use to provide an early learning centre for 200 places and 25 full time equivalent (FTE) staff;
- construction of a six-storey new primary school building including classrooms and learning spaces, recreation spaces, canteen, storage, amenities and rooftop open space;
- staged increase in student numbers accommodating a total of 1680 students (1260 additional) and 76 additional FTE staff;
- construction of a new parish church with 400 seats;
- upgrades and alterations to two existing driveways, retention of 212 existing car parking spaces and provision of 12 additional car parking spaces; and
- associated works including tree removal, pedestrian access, and landscaping.

Applicant: Catholic Schools Parramatta Diocese

Consent Authority: Independent Planning Commission

The Land: 2 Darcy Road, Westmead

(Lot 1 DP 1095407 and Lot 1 DP 1211982)

Modification:

SSD-10383-Mod-1 modifications comprising:

- revision of the western destination and the users of the schematic through site pedestrian link;
- removal of the requirement for the through site pedestrian link to be extended to Bridge Road;
- amendments to consent conditions relating to creation of easements, positive covenants, open space usage and community access to site facilities; and
- amendments to the design and layout of landscaping.

DEFINITIONS

The consent (SSD 10383) is modified as follows:

- (a) Definitions is amended by the insertion of the **bold and underlined** words / numbers as follows:

Aboriginal object	Has the same meaning as the definition of the term in section 5 of the <i>National Parks and Wildlife Act 1974</i>
Aboriginal place	Has the same meaning as the definition of the term in section 5 of the <i>National Parks and Wildlife Act 1974</i>
Accredited Certifier	Means the holder of accreditation as an accredited certifier under the <i>Building Professionals Act 2005</i> acting in relation to matters to which the accreditation applies.
Advisory Notes	Advisory information relating to the consent but do not form a part of this consent
Applicant	Catholic Schools Education Office Diocese of Parramatta <u>Diocese</u> or any other person carrying out any development to which this consent applies
BCA	Building Code of Australia
BC Act	<i>Biodiversity Conservation Act 2016</i>
CEMP	Construction Environmental Management Plan
Certified Contaminated Land Consultant	A person certified in accordance with the requirements of the Contaminated Land Consultant Certification Policy Version 2 (EPA November 2017) or any subsequent policies as in force from time to time
Certifier	Means a council or accredited certifier
Compliance Reporting Post Approval Requirements	Compliance Reporting Post Approval Requirements as available on the Department's website
CELC	Catholic Early Learning Centre
<u>CELC Administration</u>	<u>CELC Administration identified in the EIS and the approved plans listed in condition A2</u>
<u>CELC entries</u>	<u>CELC entries identified in the EIS and the plans listed in condition A2</u>
Conditions of this consent	The conditions contained in Schedule 2 of this document
Construction	<p>All physical work to enable operation including (unless specifically excluded by a condition) but not limited to the carrying out of works for the purposes of the development, including bulk earthworks and erection of buildings and other infrastructure permitted by this consent, but excluding the following:</p> <ul style="list-style-type: none"> • building and road dilapidation surveys; • investigative drilling or investigative excavation; • establishing temporary site offices (in locations identified by the conditions of this consent); • installation of environmental impact mitigation measures, fencing, enabling works; and • minor adjustments to services or utilities <p>However, where heritage items, or threatened species or threatened ecological communities (within the meaning of the <i>Biodiversity Conservation Act 2016</i> or <i>Environment Protection and Biodiversity Conservation Act 1999</i>) are affected or potentially affected by any physical work, that work is construction, unless otherwise determined by the</p>

Planning Secretary in consultation with EES Group or DPIE Fisheries (in the case of impact upon fish, aquatic invertebrates or marine vegetation)

Council	City of Parramatta Council
Demolition	The deconstruction and removal of buildings, sheds and other structures on the site
Department	NSW Department of Planning and Environment (formerly known as NSW Department of Planning, Industry and Environment)
Development	The development described in the EIS, RtS, and various SRtS, including the works and activities comprising as specified in schedule 1 and as modified by the conditions of this consent
Earthworks	Bulk earthworks, site levelling, import and compaction of fill material, excavation for installation of drainage and services
EES Group	Environment, Energy and Science Group of the Department of Planning, Industry and Environment
EIS	The Environmental Impact Statement titled <i>Environmental Impact Statement</i> , prepared by <i>Ethos Urban</i> dated 19 March 2020, submitted with the application for consent for the development, including any additional information provided by the Applicant in support of the application
ENM	Excavated Natural Material
Environment	Includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings
EPA	NSW Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
Evening	The period from 6pm to 10pm
Facilities	<u>Facilities include internal spaces and ground level open spaces, including sports ovals within the site</u>
Feasible	Means what is possible and practical in the circumstances
GTP	Green Travel Plan
Heritage	Encompasses both Aboriginal and historic heritage including sites that predate European settlement, and a shared history since European settlement
Heritage NSW	Heritage, Community Engagement of the Department of Premier and Cabinet
Heritage Item	An item as defined under the <i>Heritage Act 1977</i> , and assessed as being of local, State and/ or National heritage significance, and/or a place included on the NSW State Heritage Register, and/or an Aboriginal Object or Aboriginal Place as defined under the <i>National Parks and Wildlife Act 1974</i> , the World Heritage List, or the National Heritage List or Commonwealth Heritage List under the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cth), or anything identified as a heritage item under the conditions of this consent
Incident	An occurrence or set of circumstances that causes, or threatens to cause, Material Harm and which may or may not be, or cause, a non-compliance.
Independent Audit Post Approval Requirements	Independent Audit Post Approval Requirements as available on the Department's website
Land	As defined in section 1.4 of the EP&A Act
EMP	Environmental Management Plan
Management and mitigation measures	The management and mitigation measures set out in section 7 of the EIS as updated by the RtS and SRtS

Material harm	Is harm that: a) involves actual or potential harm to the health or safety of human beings or to the environment that is not trivial; or b) results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$10,000, (such loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment)
Mitigation	Activities associated with reducing the impacts of the development prior to or during those impacts occurring
Monitoring	Any monitoring required under this consent must be undertaken in accordance with section 9.39 of the EP&A Act
Non-compliance	An occurrence, set of circumstances or development that is a breach of this consent
OMP	Operational Management Plan
OTAMP	Operational Transport and Access Management Plan
Operation	The carrying out of the approved purpose of the development upon completion of construction
<u>Open space</u>	<u>Uncovered and open to air play spaces including basketball courts, tennis courts, cricket nets and sports ovals within the site</u>
Parish church	The church proposed within the site identified in the plans in condition A2.
PA	Means a planning agreement within the meaning of the term in section 7.4 of the EP&A Act
Planning Secretary	Planning Secretary under the EP&A Act, or nominee
<u>Primary school K-6 entry</u>	<u>Primary school K-6 building entry identified in the EIS and the plans listed in condition A2</u>
POEO Act	<i>Protection of the Environment Operations Act 1997</i>
RAP	Registered Aboriginal Parties
Reasonable	Means applying judgement in arriving at a decision, taking into account: mitigation, benefits, costs of mitigation versus benefits provided, community views, and the nature and extent of potential improvements
Rehabilitation	The restoration of land disturbed by the development to a good condition, to ensure it is safe, stable and non-polluting
RtS	The Applicant's <i>Response to Submissions – Westmead Catholic Community State Significant Development Application</i> , prepared by Ethos Urban dated 14 September 2020, including any attachments and additional information provided by the Applicant
School	The primary school identified in the EIS and the plans listed in condition A2
Sensitive receivers	A location where people are likely to work, occupy or reside, including a dwelling, school, hospital, office or public recreational area
Site	The land defined in Schedule 1
Site Auditor	As accredited by the EPS pursuant to section 4 of the <i>Contaminated Land Management Act 1997</i>
Site Audit Report	A report prepared by a Site Auditor pursuant to section 4 of the <i>Contaminated Land Management Act 1997</i>
Site Audit Statement	A statement prepared by a Site Auditor pursuant to section 4 of the <i>Contaminated Land Management Act 1997</i>
SRtS	Supplementary RtS and associated documents submitted to the Department by the Applicant on 23 December 2020, 8 February 2021, 10 March 2021, 6 September 2021 (amended proposal), 14 October 2021 and 26 November 2021

TAA	Transport & Accessibility Impact Assessment Report including all Appendices prepared by The Transport Planning Partnership dated 25 August 2021
TfNSW	Transport for New South Wales
Upgrading	The carrying out of works (including replacing plant, equipment, or machinery or updating relevant technology) to improve the efficiency of the development or to enable or enhance its continued operation.
<u>Users</u>	<u>All users of the schools including but not limited to students, staff, carers, maintenance staff and the CELC</u>
VENM	Virgin Excavated Natural Material
Waste	Has the same meaning as the definition of the term in the Dictionary to the POEO Act
Year	A period of 12 consecutive months

SCHEDULE 2

- (b) Schedule 2 Part A (Administrative Conditions) Condition A2 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

Terms of Consent

A2. The development may only be carried out:

- (a) in compliance with the conditions of this consent;
- (b) in accordance with all written directions of the Planning Secretary;
- (c) generally in accordance with the EIS, except where superseded by the Response to Submissions (RtS) and supplementary RtS (SRtS) **and SSD-10383-Mod-1**;
- (d) in accordance with the approved plans in the table below:

Westmead Catholic Community Education Campus, prepared by Alleanza Architecture			
Dwg No.	Rev	Name of Plan	Date
MP-DA-100	F	Site Plan	03/09/2021
MP-DA-150	C	Site Analysis	03/09/2021
MP-DA-200	C	Site Section	03/09/2021
MP-DA-300	C	Site Elevation	03/09/2021
MP-DA-950	F	Parking Allocations and Site Circulations	03/09/2021
MP-DA-951	B	Through Site Link	20/08/2020
MP-DA-952	A	Tree Location Plan	03/09/2021
MP-DA-953	A	Parish Relocation Plan	03/09/2021
Parish Church			
CH-DA-001	D	Site Plan	06/09/2021
CH-DA-100	D	Parish Church Floor Plan	06/09/2021
CH-DA-101	B	Roof Plan	06/09/2021
CH-DA-200	C	Sections	06/09/2021
CH-DA-201	C	Sections	06/09/2021
CH-DA-300	C	Elevations (Sheet 1)	06/09/2021
CH-DA-301	C	Elevations (Sheet 2)	06/09/2021
CH-DA-302	C	Elevations (Sheet 3)	06/09/2021
CH-DA-400	B	External Materials and Finishes (Sheet 1)	06/09/2021
CH-DA-401	B	External Materials and Finishes (Sheet 2)	06/09/2021
K-6 Building			
K6-DA-100	D	Floor Plan-Ground Floor	20/08/2020
K6-DA-101	D	Floor Plan - Level 1	20/08/2020
K6-DA-102	D	Floor Plan - Level 2	20/08/2020
K6-DA-103	D	Floor Plan - Level 3	20/08/2020
K6-DA-104	D	Floor Plan - Level 4	20/08/2020
K6-DA-105	D	Floor Plan - Level 5	20/08/2020
K6-DA-106	C	Roof Plan	20/08/2020
K6-DA-200	B	Section (Sheet 1)	19/03/2020
K6-DA-201	B	Section (Sheet 2)	19/03/2020
K6-DA-300	B	Elevations	19/03/2020
K6-DA-301	B	Elevations	19/03/2020
K6-DA-400	D	Sections	20/08/2020

K6-DA-900	C	Open space (Ground Floor and Level 1)	03/09/2021
K6-DA-901	B	Open space (Level 2 & 3)	20/08/2020
K6-DA-902	B	Open space (Level 4 & 5)	20/08/2020
K6-DA-906	E	K, Y1, Y2 - Allocation of Open Space	03/09/2021
K6-DA-907	B	Y5/Y6 - Allocation of Open Space	20/08/2020
K6-DA-908	B	Y3/Y4 - Allocation of Open Space	20/08/2020
K6-DA-909	C	K-6 Vertical Circulation	20/08/2020
Catholic Early Learning Centre (CELC) and Administration Centre			
AC-DA-050	B	Ground Floor Plan, Demolition	19/03/2020
AC-DA-070	B	Elevations, Demolition	19/03/2020
AC-DA-071	B	Elevations 2, Demolition	19/03/2020
AC-DA-100	C	Proposed Floor Plan	20/08/2020
AC-DA-150	B	Ground Floor Plan - Detailed Plan of Admin	19/03/2020
AC-DA-151	B	Ground Floor Plan - Detailed Plan of CELC	19/03/2020
AC-DA-152	B	Ground Floor Plan - Detailed Plan of K-6 Resource Centre	19/03/2020
AC-DA-200	B	Sections	19/03/2020
AC-DA-300	B	Elevations (Sheet 1)	19/03/2020
AC-DA-301	B	Elevations (Sheet 2)	19/03/2020
AC-DA-400	B	Detailed Sections	19/03/2020
Car park			
CP-DA001	C	Site Plan (Car park)	06/09/2020
CP-DA002	C	Site Analysis	06/09/2020
CP-DA003	C	Demolition Plan	06/09/2020
CP-DA101	C	Proposed Ground Floor Plan (Part1)	06/09/2020
Landscape Drawings, Prepared by <i>Ground Ink</i>.			
Dwg No.	Rev	Name of Plan	Date
LA-101	D	Landscape Master Plan	06/09/2021 <u>26/04/2023</u>
LA-102	D	General Arrangement Plan	06/09/2021 <u>26/04/2023</u>
LA-201	B <u>D</u>	Existing Tree Plan	24/08/2020 <u>26/04/2023</u>
LA-301	D	Parish Landscape Plan	06/09/2021 <u>26/04/2023</u>
LA-302	A <u>D</u>	Parish Landscape Section	04/03/2020 <u>26/04/2023</u>
LA-401	D	Primary School Landscape Plan - Ground Level	06/09/2021 <u>26/04/2023</u>
LA-402	D	Primary School Landscape Section	06/09/2021 <u>26/04/2023</u>
LA-403	A <u>D</u>	Primary School Landscape Plan - Level 1	04/03/2020 <u>26/04/2023</u>
LA-404	A <u>D</u>	Primary School Landscape Plan - Level 2	04/03/2020 <u>26/04/2023</u>
LA-405	A <u>D</u>	Primary School Landscape Plan - Level 3	04/03/2020 <u>26/04/2023</u>

LA-406	<u>A</u> <u>D</u>	Primary School Landscape Plan - Level 4	04/03/2020 <u>26/04/2023</u>
LA-407	<u>A</u> <u>D</u>	Primary School Landscape Plan - Level 5	04/03/2020 <u>26/04/2023</u>
LA-501	D	CELC Landscape Plan and Section	06/09/2024 <u>26/04/2023</u>
LA-601	D	Indicative Planting Palette	06/09/2024 <u>26/04/2023</u>
LA-701	<u>A</u> <u>D</u>	External Finishing Palette	04/03/2020 <u>26/04/2023</u>
LA-801	<u>B</u> <u>D</u>	Landscape Rooftop Soil Depths - Level 5	06/09/2024 <u>26/04/2023</u>
LA-802	<u>B</u> <u>D</u>	Wayfinding Analysis	06/09/2024 <u>26/04/2023</u>
LA-802	<u>B</u> <u>D</u>	Tree Canopy Coverage	06/09/2024 <u>26/04/2023</u>

- (c) Schedule 2 Part B (Prior to the Issue of a Construction Certificate) Conditions B1 and B2 are amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

Through site pedestrian link

- B1. Prior to the issue of any construction certificate for the landscaping works within the site (or an alternate timeframe agreed with the Planning Secretary), the Applicant must submit an amended site plan to the satisfaction of the Planning Secretary including the following:
- a schematic diagram of a through site direct and paved pedestrian connection from Farmhouse Road to the ~~western boundary of the site (Lot 1 DP 1095407 and Lot 1 DP 1211982)~~ **primary school K-6 entry (and also passing the CELC Administration and CELC entries fronting the western car parking area)** to facilitate active access solutions supporting the GTP and to allow for alternate student access to the site **by all users of the schools and CELC (except external users of the parish church and the users of facilities required by condition E43(a)) located on Lot 1 DP 1095407 and/or Lot 1 DP 1211982,** in addition to the existing Darcy Road entry points, ~~consistent with Figure 6.6 of Transport & Accessibility Impact Assessment prepared by Transport Planning Partnership dated 25 August 2021; and,~~
 - ensure the through site pedestrian link required in condition B1(a) demonstrates consistency with each of the following design performance parameters:**
 - be as direct as possible, avoiding convoluted / circuitous route(s) around / through buildings within the site;**
 - achieve a high standard of design and construction ensuring user safety, equitable access;**
 - is not visually or physically obstructed (unless otherwise agreed with the Planning Secretary); and**
 - provide an appropriate paved connection width that comfortably accommodates users walking abreast in each direction, or an alternative width as agreed by the Planning Secretary.**
 - ~~ensure the diagram prepared under (a) provides for a possible future pedestrian connection linking the east-west pedestrian link to Bridge Road (to the west) including possible access through the adjoining properties to the west and the riparian zone.~~
- B2. The ~~schematic pedestrian link diagrams~~ **of the through site pedestrian link required in condition B1(a)** must be prepared in consultation with **submitted to** Council **for information** and evidence of such consultation **submission** provided to the Planning Secretary along with details in condition B1.

- (d) Schedule 2 Part E (Prior to the Issue of an Occupation Certificate) Condition E4 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

Pedestrian connections and easements

E4. At least 2 months prior to the issue of the first occupation certificate for the school, the Applicant must:

- (a) provide evidence **to the Planning Secretary** that the internal ~~through~~ site **pedestrian** link from the multi-storey car park to the school and CELC ~~has been completed so that is~~ **operational and is in a satisfactory condition for** the users **(identified in condition B1(a))** ~~to~~ **can** access the site safely from the multi-storey car park area;
 - (b) provide evidence **to the Planning Secretary** that the ~~paved~~ **through site** pedestrian link ~~through the site connecting Farmhouse Road to the western boundary of the site~~ **primary school K-6 entry (and also passing the CELC Administration and CELC entries fronting the western car parking area)**, as required by condition B1(a) is operational and **is in a satisfactory condition for use by the school/CELC** ~~users and parish church users; and~~
 - (c) provide satisfactory evidence to the Certifier that all required easements (if any ~~except where not required under condition E4(d)~~) under section 88B and/or positive covenants, have been created within the site (where necessary) to establish this pedestrian link and allow the use of this link by the students of the proposed school, CELC or the users of the parish church **all users of the schools and CELC (except external users of the parish church and the users of facilities identified in condition E43(a)) located on Lot 1 DP 1095407 and Lot 1 DP 1211982** at all times; and.
- OR**
- (d) ~~provide satisfactory evidence to the Certifier that a positive covenant has been created under section 88B to allow for the east-west pedestrian link (required by condition B1(a)) or any similar east-west pedestrian link within the site (Lot 1 DP 1095407 and Lot 1 DP 1211982) to be used as public pedestrian access between 7am and 5pm (school days), when the connection is extended from the site to Bridge Road in the future as an alternative to the requirements in condition E4(c), provide satisfactory evidence to the Planning Secretary that an easement and/or positive covenants is not required.~~

- (e) Schedule 2 Part E (Prior to the Issue of an Occupation Certificate) Condition E5 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

Open space provisions

E5. To allow for appropriate access to “uncovered and open to air” play spaces (all open spaces outside the footprint and roof overhang of the school building), the Applicant must provide an Open Space Management Plan to the satisfaction of the Planning Secretary, prior to the issue of any occupation certificate. The plan must demonstrate that all students of the ~~primary~~ school would have sufficient and regular access to ground level ~~ovals~~ **open space** within the site (Lot 1 DP 1095407 and Lot 1 DP 1211982), without requiring the displacement of other students (such as the high school students) from ~~these ovals~~ **this open space**.

- (f) Schedule 2 Part E (Prior to the Issue of an Occupation Certificate) Condition E43 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

Community access to recreational facilities

E43. Prior to the issue of the occupation certificate for the school (unless alternate timeframe is agreed within the Planning Secretary), the Applicant must provide evidence that:

- (a) a management plan has been developed in conjunction with the other existing schools within the site to allow access to the ~~sports ovals~~ **facilities including sports ovals within the site** to others, **including but not limited to** local schools and/or local community groups outside the school hours, **subject to availability and on a hire basis** and a copy of the management plan has been approved by the Certifier and provided to Council for information;

OR

- (b) satisfactory consultation has been undertaken with the other owners of the site in developing a management plan referred to in condition E43(a) and that this plan can be delivered within 12 months of commencement of operation of the school.
- (g) Schedule 2 Part F (Post Occupation) is amended by the deletion of conditions F1 and F2 as shown by the struckout words/numbers as follows:

Through site pedestrian link

~~F1. Within 12 months of commencement of operation of the school, the Applicant must provide the following to the satisfaction of the Planning Secretary:~~

~~(a) evidence that:~~

- ~~(i) an east west link from the site to Bridge Road (to the west) including possible access through the adjoining properties to the west and the riparian zone (in accordance with the schematic plans in condition B1, or otherwise agreed with the Planning Secretary) has been constructed; and~~
- ~~(ii) all required easements (for the internal site link, if needed and the extended pedestrian link to Bridge Road) under section 88B and/or restriction or public positive covenant under section 88E of the Conveyancing Act 1919 naming Council/Planning Secretary (or the relevant public authority) as the prescribed authority, which can only be revoked, varied or modified with the consent of the Council / Planning Secretary (or the relevant public authority), have been registered, to establish this pedestrian link and allow the use of this link by the students of the proposed school, CELC or the users of the parish church at all times;~~

OR

- ~~(b) where an east west link from the site to Bridge Road (to the west) including possible access through the adjoining properties to the west is not built/completed, but an agreement(s) is/are in place for the link providing a realistic timeline for delivery of the link is provided to the Planning Secretary and the timeframe of the delivery of the link is agreed with.~~

OR

~~(c) evidence that:~~

- ~~(i) the Applicant has undertaken extensive consultation and engagement with the adjoining property owners and the relevant public authorities to establish the above link in condition F1(b);~~
- ~~(ii) evidence of this consultation is provided; and~~
- ~~(iii) the reasons for which the pedestrian link cannot be established through the adjoining properties and/or riparian zone adjoining the site.~~

~~F2. If an alternate timing for delivery of the through site link to Bridge Road (as required by condition F1(b)) is agreed with the Planning Secretary, then the link must be delivered within that time.~~

- (h) Schedule 2 Part F (Post Occupation) Condition F14A is added by the insertion of the **bold and underlined** words / numbers as follows:

Operational Transport and Access management Plan (OTAMP)

F14A. The through site pedestrian links required under conditions E4(a) and E4(b) must be operational and be maintained by the Applicant for the life of the development.

End of modification

(SSD-10383-Mod-1)