



New South Wales Government
Independent Planning Commission

Roseville College, Sport and Wellbeing Centre Project (SSD-9912)

Statement of Reasons for Decision

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State of New South Wales through the Independent Planning Commission 2021

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EXECUTIVE SUMMARY

The Anglican Schools Corporation seeks development consent for a new sport and wellbeing centre and expansion of the existing school campus at Roseville College, located at 27–29 and 37 Bancroft Avenue, Roseville, within the Ku-ring-gai Local Government Area (LGA).

The new facility is proposed to comprise a three-storey building with a maximum building height of 9.05m and a total gross floor area (GFA) of approximately 2,689 square metres. It is proposed to incorporate a 25-metre, eight-lane indoor swimming pool with associated concourse and grandstand, strength and conditioning gymnasium, food technology space, general learning areas (GLAs), amenities and storage, rooftop sports courts, basement car parking for an additional 48 car parking spaces, signage and landscaping. Consent is also sought for tree removal, demolition and excavation works to enable the construction of the proposed facility.

The Department of Planning, Industry and Environment (Department) finalised its whole-of-government assessment of the State significant development application (Application) for the Project in May 2021. Under section 4.5(a) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), the Independent Planning Commission is the consent authority for this Application because the Department received more than 50 unique public objections and an objection from Ku-ring-gai Council (Council) during the public exhibition of the Application.

Commissioners Peter Duncan AM (Chair) and Adrian Pilton were appointed to constitute the Commission Panel in determining the Application. They met with representatives of the Applicant, Council and the Department and conducted an inspection of the site and surrounding area. In May 2021, the Commission hosted an electronic Public Meeting to listen to the community's views.

Key comments raised by members of the community at the Public Meeting and in written submissions received by the Commission include: the need for the development; built form; residential amenity; heritage; traffic and parking; construction impacts; and concern about additional future development.

In the Department's view, the Project is *"in the public interest and should be approved, subject to conditions"*. In its Assessment Report (AR), the Department concluded that *"the impacts of the development are acceptable and can be appropriately mitigated through the implementation of the recommended conditions of consent"*.

After careful consideration of all the material, and having taken into account the community's views presented at the Public Meeting and in written submissions received by the Commission, the Commission has determined that development consent should be granted for the Project, subject to conditions. These conditions are designed to prevent, minimise and / or offset adverse environmental impacts and ensure ongoing monitoring and appropriate environmental management of the Site.

The Commission's reasons for approval of the Project are set out in this Statement of Reasons for Decision.

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DEFINED TERMS

ABBREVIATION	DEFINITION
Applicant	The Anglican Schools Corporation
Application	Roseville College, Sport and Wellbeing Centre Project (SSD-9912)
AR	Assessment Report (prepared by the Department, dated May 2021)
ARP	Assessment Report Paragraph
CIV	Capital Investment Value
Commission	NSW Independent Planning Commission
Council	Ku-ring-gai Municipal Council
CTMP	Construction Traffic Management Plan
CWTS	Construction Worker Transport Strategy
Department	Department of Planning, Industry and Environment
Department's AR	Department's Assessment Report (dated May 2021)
DOPU	Drop-off and pick-up area
EFSG	<i>Educational Facilities Standards and Guidelines</i>
EIS	Environmental Impact Statement
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
FSR	Floor Space Ratio
GFA	Gross Floor Area
GTP	Green Travel Plan
HCA	Heritage Conservation Area
ICNG	<i>Interim Construction Noise Guideline</i>
KLEP (LC) 2012	<i>Ku-ring-gai Local Environmental Plan (Local Centres) 2012</i>
KLEP 2015	<i>Ku-ring-gai Local Environmental Plan 2015</i>
LEP	Local Environmental Plan
LGA	Local Government Area
Material	The material identified in section 5.2
NPfI	<i>NSW Noise Policy for Industry</i>
Project	Development of a new three-level sport and wellbeing centre at Roseville College, including 48 basement car parking spaces; a 25-metre indoor swimming pool and associated concourse, grandstand, training facilities and storage areas; general learning areas and food technology space; rooftop outdoor sports courts; signage; and landscaping.
Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
Relevant Considerations	Relevant mandatory considerations, as provided in s 4.15(1) of the EP&A Act
RFI	Request for Information

RNP	<i>NSW Road Noise Policy</i>
RtS	Response to Submissions
SEARs	Planning Secretary's Environmental Assessment Requirements
SEPP	State Environmental Planning Policy
SEPP 64	<i>State Environmental Planning Policy No 64 – Advertising and Signage</i>
SEPP SRD	<i>State Environmental Planning Policy (State and Regional Development) 2011</i>
Site	27–29 and 37 Bancroft Avenue, Roseville
SoHI	Statement of Heritage Impact
SRD SEPP	<i>State Environmental Planning Policy (State and Regional Development) 2011</i>
SSD	State Significant Development
TIA	Traffic Impact Assessment

1 INTRODUCTION

1. On 3 May 2021, the NSW Department of Planning, Industry and Environment (**Department**) referred a State significant development (**SSD**) application (SSD-9912) (**Application**) from The Anglican Schools Corporation (**Applicant**) to the NSW Independent Planning Commission (**Commission**) for determination.
2. The Application seeks approval under section 4.36 of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**) for the development of a new sport and wellbeing centre and expansion of the existing school campus at Roseville College in Roseville (**Project**) located in the Ku-ring-gai Local Government Area (**LGA**).
3. The Commission is the consent authority in respect of the Application under section 4.5(a) of the EP&A Act and clause 8A of the *State Environmental Planning Policy (State and Regional Development) 2011* (**SEPP SRD**). This is because:
 - the Application constitutes SSD under section 4.36 of the EP&A Act as the Application has a capital investment value (**CIV**) of more than \$20 million for the purpose of alterations or additions to an existing school under clause 15(2) of Schedule 1 of SEPP SRD;
 - the Department received an objection from the local council, namely Ku-ring-gai Council (**Council**); and
 - the Department received more than 50 submissions from the public objecting to the Application.
4. Professor Mary O’Kane AC, Chair of the Commission, nominated Mr Peter Duncan AM (Chair) and Mr Adrian Pilton to constitute the Commission Panel determining the Application.

2 THE APPLICATION

2.1 Site and Locality

5. The ‘site’ for the purposes of this Statement of Reasons is defined as 27–29 and 37 Bancroft Avenue, Roseville (Lot 2003 DP1084428 and Lot 18 DP 5035 respectively) (**Site**).
6. The Department’s Assessment Report (**AR**), dated May 2021, describes the Site at section 1.2.
7. AR Paragraph (**ARP**) 1.2.2 states that the location of the Site is approximately nine kilometres north of Sydney’s central business district and 1.2 kilometres north of Chatswood. ARP 1.2.3 states that the Site is comprised of an area of approximately 20,621 square metres, including part of the existing Roseville College campus (19,300 square metres) and an adjacent residential property at 37 Bancroft Avenue (1,321 square metres).
8. ARP 1.2.4 states:

The site is bound by Bancroft Avenue to the north, Recreation Avenue and Roseville Lawn Tennis Club to the east. Low density residential development comprising one to two-storey dwellings is located to the east and west. Medium density residential development comprising four to five-storey residential flat buildings is located to the south along Victoria Street.

9. Existing development at the Site comprises the Roseville College school campus at 27–29 Bancroft Avenue, including campus buildings primarily concentrated toward the central and southern parts of the Site and situated around a main central courtyard (ARP 1.2.5). The school's main reception, administration and student services are located at the northern part of the Site within three existing former dwellings fronting Bancroft Avenue (ARP 1.2.5). The school currently has two multi-purpose outdoor sports courts, which are located at the north-eastern part of the Site, an outdoor swimming pool located beneath the 'Isobel Davies Building', and on-site car parking in the basement level of the 'Joy Yeo Centre' (ARP 1.2.6).
10. ARP 1.2.7 states that 37 Bancroft Avenue is located at the north-eastern part of the Site and contains a single-storey dwelling with a detached garage, swimming pool and tennis court. The property was purchased by the school in 2016 with the intention to expand the school campus (ARP 1.2.7).
11. The Commission notes 37 Bancroft Avenue is located within the Clanville Heritage Conservation Area (HCA) (C32) under Schedule 5 of the *Ku-ring-gai Local Environmental Plan 2015 (KLEP 2015)* but is not itself identified as a heritage item.
12. The Commission notes the Site is also located adjacent to the Lord Street / Bancroft Avenue HCA (C36) to the north and west of the existing school campus (ARP 1.2.13).
13. The location of the Site is illustrated in **Figure 1** and **Figure 2** below, and the Site location in context to the surrounding HCAs is illustrated at **Figure 3**.

Figure 1 Site Location – Regional Context (source: Department's AR, Figure 1)

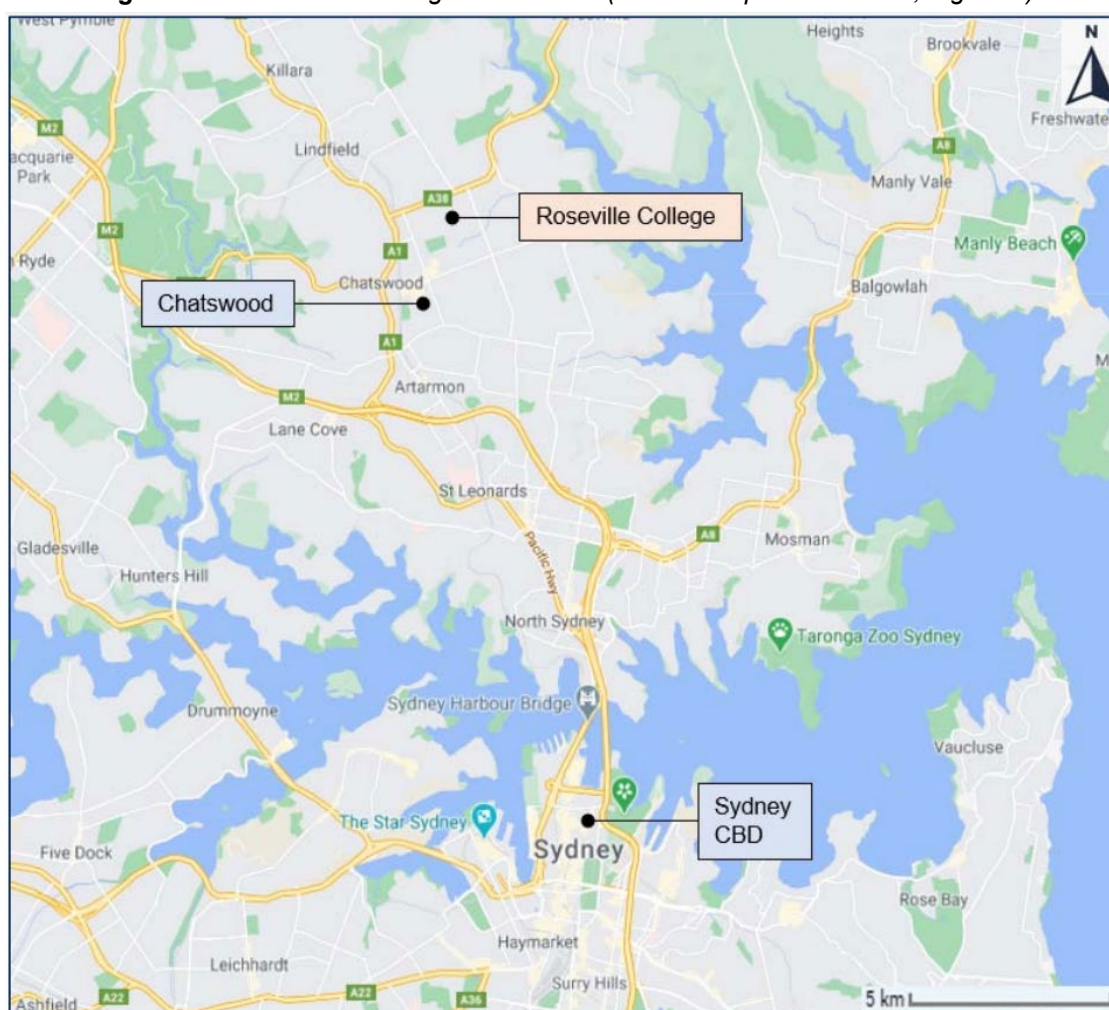
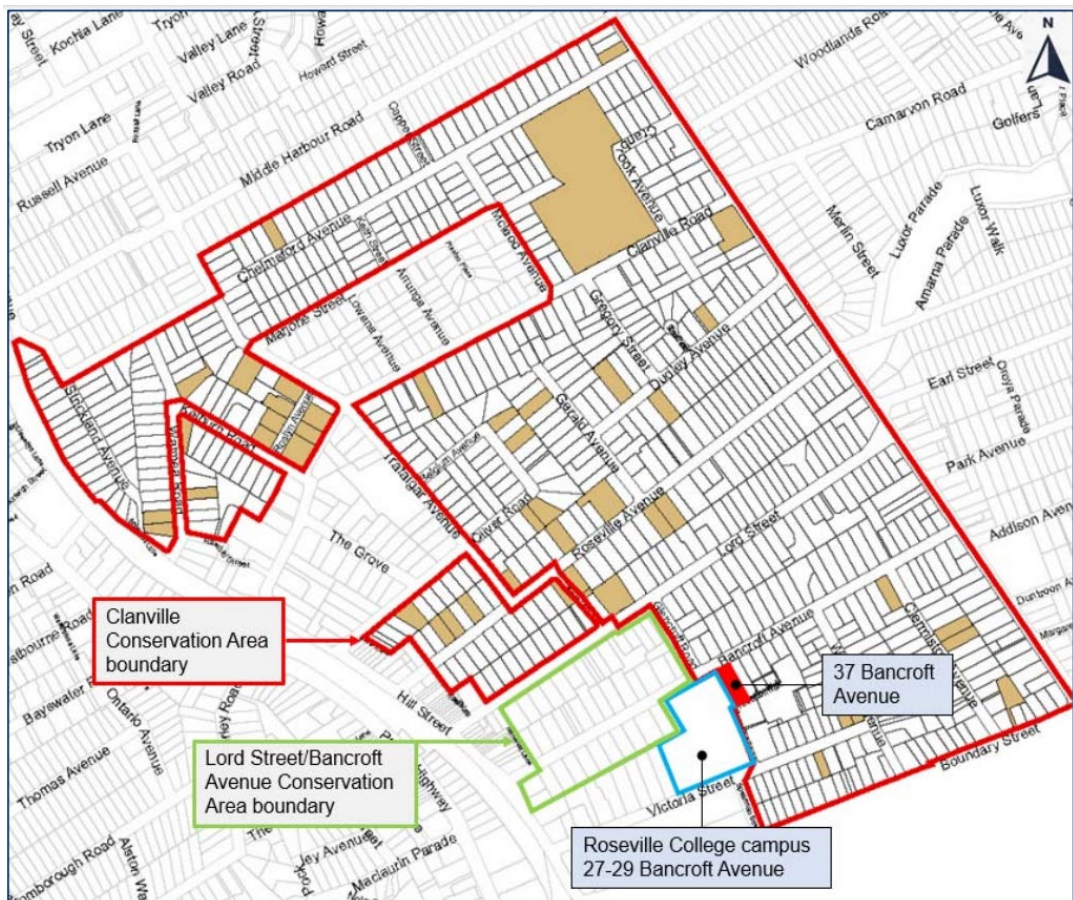


Figure 2 Site Location – Local Context (source: Department's AR, Figure 2)



Figure 3 Site Location – Heritage Context (source: Department's AR, Figure 8)



2.2 Existing Operations

14. Roseville College is an independent school for girls catering to students from Kindergarten to Year 12 (ARP 1.4.4).

15. ARP 1.4.1 and 1.4.2 describe the history of the school on the Site:

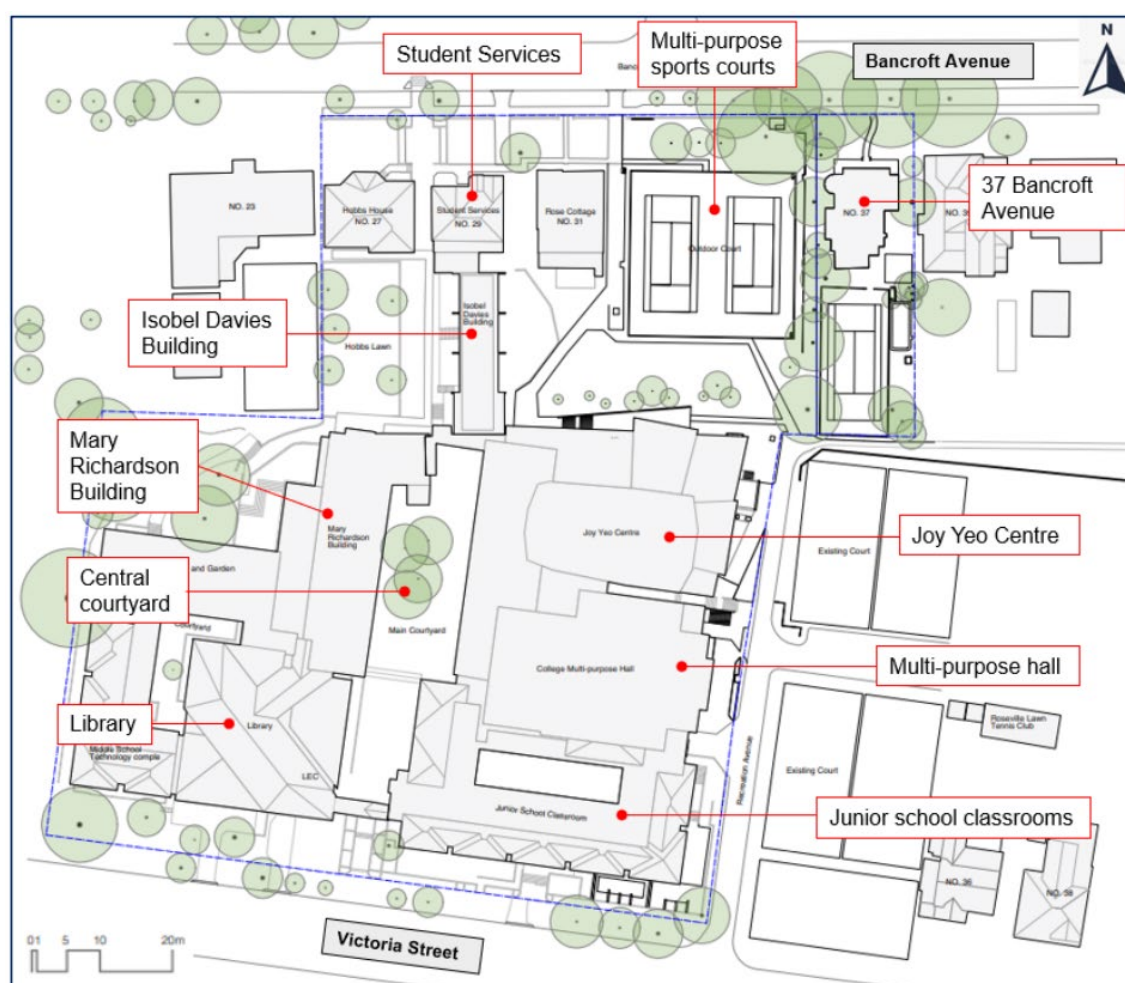
The site was originally developed as detached residential dwellings and formed part of the Roseville Park Estate and the Clanville Estate from the late nineteenth and early twentieth centuries.

The site has been used for educational purposes since 1908 and originally consisted of a single school building and small playing field. The school has expanded since its initial establishment to accommodate a growing student population reflective of the increased population throughout the upper north shore and surrounding locality.

16. The Department's AR states that at the time the Application was lodged (October 2019), Roseville College had a population of 973 students and employed 135 full-time permanent staff and 160 casual staff (ARP 1.4.4). The school has an approved maximum capacity of 1,250 students to the year 2030, subject to conditions applied by Council under a previous development application (DA0261/16) in relation to on-site car parking provisions and the capacity of the Victoria Street drop-off and pick-up (**DOPU**) area.

17. The existing Roseville College campus layout is illustrated in **Figure 4** below.

Figure 4 Existing Roseville College Campus Layout (source: Department's AR, Figure 3)



18. The school's existing operating hours are set out at ARP 1.4.6 and 1.4.7:
Core operating hours are between 8:30am and 3:15pm Monday to Friday during school term. Before and after-school activities are carried between 7am and 8:30am and 3:15pm and 6pm Monday to Friday during school term.
Out-of-hours events include an after-school learn-to-swim program that operates from the school's existing outdoor swimming pool during the spring and summer school terms and Christmas school holidays.
19. The Department's AR describes the existing access arrangements to the school. ARP 1.2.8 states that existing pedestrian access to the campus is provided from Bancroft Avenue and Victoria Street, with the main pedestrian access from Bancroft Avenue. The primary vehicle access point to the Site is from Bancroft Avenue and Victoria Street (ARP 1.2.9). On-site car parking is accessed from Recreation Avenue via Victoria Street, and waste collection and emergency services access is provided from Bancroft Avenue (ARP 1.2.9).
20. ARP 1.2.10 states that there are currently 129 on-site car parking spaces allocated to staff and Year 12 students (located within the basement levels of the 'Joy Yeo Centre' and multi-purpose school hall), and a dedicated DOPU area is located along the northern side of Victoria Street with capacity for approximately 13 vehicles.

2.3 The Project

21. The main components of the Project are set out at Table 2 of the Department's AR, which is attached in full at **Appendix A** of this Statement of Reasons.
22. ARP 1.1.2 states:
The new facility is proposed to incorporate an indoor swimming pool with associated concourse and grandstand, strength and conditioning gymnasium, food technology space, general learning areas (GLAs), amenities and storage, rooftop sports courts, basement car parking, signage and landscaping. Consent is also sought for tree removal, demolition and excavation works to enable the construction of the proposed facility.
23. The proposed new eight-lane indoor swimming pool would be 25 metres in length (ARP 2.3.3).
24. The proposed basement carpark would provide for an additional 48 car parking spaces (25 spaces at Level 1 and 23 spaces at Level 2) (AR Table 2) and would require the removal of one existing parking space, resulting in a total of 176 on-site car parking spaces (ARP 6.5.34).
25. ARP 2.3.1 states that "*the proposed Sport and Wellbeing Centre would be constructed to a maximum height of 9.05m from natural ground level (RL 91.5) and comprise a total gross floor area (GFA) of approximately 2,689 square metres*". Given that Level 1 and part of Level 2 are proposed to be located below ground, the three-level building would present as a two-level structure to Bancroft Avenue (ARP 2.3.2).
26. The Project layout is illustrated in the Department's AR at Figures 13 to 15, and elevations of the proposed development are illustrated at Figures 16 to 19 of the AR.

2.4 Need and Strategic Context

27. At ARP 3.1.1, the Department states that *“the proposed development would support the needs of the school’s growing student population and replace ageing school infrastructure and facilities”*. The Department notes there is an existing outdoor swimming pool on the Site, which has operated since 1973 and has reached the end of its useful life and cannot be used during the cooler months of the year (ARP 3.1.3). The Department states that *“the Applicant is considering options for the future removal of the existing swimming pool, which would be subject to a separate [development application]...”* (ARP 3.1.3).
28. The Department notes that the Application does not seek to increase the approved student population. However, as noted at paragraph 16 above, the *“approved maximum student capacity of the school is yet to be reached, and therefore, the proposed facility would support the growing student population that has previously been approved by Council”* (ARP 3.1.2).
29. ARP 3.1.4 notes that the Department considers the Project to be consistent with:
 - *NSW Premier’s Priority for high quality education;*
 - *Greater Sydney Region Plan – A Metropolis of Three Cities, 2018;*
 - *North District Plan, 2018;*
 - *NSW Future Transport Strategy 2056;* and
 - *State Infrastructure Strategy 2018-2038.*
30. The Commission notes the Project would *“generate a direct investment of approximately \$29.5 million, which would support 72 jobs, including 69 construction jobs and three operational jobs”* (ARP 3.1.5).
31. The Commission has considered the strategic planning policies and guidelines relevant to the Site and to the Project.

3 COMMUNITY PARTICIPATION & PUBLIC SUBMISSIONS

3.1 Community Group Attendance at the Site Inspection

32. On 13 May 2021, the Commission conducted an inspection of the Project Site.
33. The Commission invited representatives from community groups to attend and observe the Site inspection. A representative of the Friends of Ku-ring-gai Environment Inc. (FOKE) attended the Site inspection, as well as one representative from a neighbouring property.

3.2 Public Meeting

34. The Commission conducted a Public Meeting on 27 May 2021. The Public Meeting was held electronically with registered speakers presenting to the Commission Panel via telephone or video conference. The Public Meeting was streamed live on the Commission’s website.
35. The Commission heard from the Department, the Applicant and individual community members. In total, seven speakers presented to the Commission during the Public Meeting.
36. Presentations made at the Public Meeting have been considered by the Commission as submissions and are referenced below in section 3.3.

3.3 Public Submissions

37. As part of the Commission's consideration of the Project, all persons were offered the opportunity to make written submissions to the Commission until 5.00pm on Thursday 3 June 2021.
38. The Commission received a total of 14 written submissions. The submissions made to the Commission comprised the following:
- 14 submissions objecting to the Application; and
 - No submissions in support of the Application or comments on the Application (neither objecting nor supporting the Project).
39. Key comments raised about the Application through submissions related to:
- need for the development;
 - built form;
 - residential amenity;
 - heritage;
 - traffic and parking;
 - construction impacts; and
 - concern about additional future development.

Comments made through submissions are summarised below.

40. Following receipt of the Applicant's and the Department's responses to additional information sought by the Commission, the Commission invited additional submissions on the new material. During the extended submission period, the Commission received seven written submissions, including a submission from Council and the Applicant.

3.3.1 Key Issues Raised

Need for the Development

41. The Commission received written submissions questioning whether an entirely new sport and wellbeing centre is needed at the school. One written submission stated:

We are unsure as to why the development is even necessary. In the absence of an increase in the number of school children attending the school why is the development necessary? The existing pool / facilities could be upgraded / repaired at considerably less cost than the proposed development.

Built Form

42. The Commission received written submissions and heard from speakers at the Public Meeting who objected to the Project due to the bulk and scale of its built form, especially when viewed from Bancroft Avenue. One written submission stated:

We believe that the bulk and scale of the proposed development is excessive and totally out of scale with the existing streetscape and surrounding locality. The proposed development is within the Clanville Conservation Area (C32) and in the vicinity of the Lord Street / Bancroft Avenue HCA (C36). The development clearly does not conform to the existing character of the area. The proposed built form will have an unacceptable impact on the character of the surrounding locality. We are very concerned about the increase in built form.

43. A written submission from a community organisation stated:

The bulk and scale of the proposed development is out of character with the local area and is unacceptable.

44. Another written submission stated:

The proposed development is stylistically unsympathetic to the architecture of the area and is of significant scale and bulk, such that its introduction will have a profound negative effect on the Heritage nature of the local area.

45. At the Public Meeting, a member of the public commented:

...the proposed structure is clearly incongruent with the residences and the school's own building that face Bancroft Avenue... In my view, the Department's assessment fails to explain why the development would not have a significant impact on the established low density residences and streetscape (page 22, Public Meeting Transcript).

Impacts on Residential Amenity

46. The Commission received written submissions and heard from speakers at the Public Meeting who raised concerns about impacts to residential amenity as a result of the Project. One written submission stated:

I think that with this sports centre it will change the lovely quiet neighbourhood feel and make it very busy. I am concerned that if the school hires the centre out to other sports clubs that this will disturb the residents (of which I am one) and make noise, traffic and lighting an issue even at night.

47. A speaker at the Public Meeting stated:

In short, we will have total destruction of our privacy from the views not only from the windows but also from the full length of the tennis courts which run the entire length of our house and beyond. We face living with our curtains constantly closed, unable to enjoy our outside areas and have any privacy in our own rear garden. In fact, we will be on show for everybody who is on the tennis courts... And, secondly, in order to create some artifice of privacy Council have required large tree plantings right along our boundary which will block a huge amount of our natural light and create another barrier which is unwanted (page 14 of the Public Meeting Transcript).

Heritage

48. The Commission received written submissions and heard from speakers at the Public Meeting who objected to the Project on the basis of heritage impacts. Members of the public noted that the dwelling at 37 Bancroft Avenue is a contributory item to the Clanville HCA (C32) and raised concerns about its proposed demolition.

49. A written submission commented that the demolition of 37 Bancroft Avenue is not necessary because the building could be “*retained, reused or readapted*”. Another written submission stated:

Demolition of a house in a Heritage Conservation Area. Sets [sic] a bad precedent and creates uncertainty for all existing and future residents in HCA's. Why did the Government create these areas if it wasn't to preserve the buildings within them?

50. At the Public Meeting, a member of the community raised concern about the proposed demolition of 37 Bancroft Avenue and cited two cases that consider demolition of contributory items within HCAs (this matter is discussed at section 7.3 of this Statement of Reasons). The speaker stated:

*I don't believe and nor does my family that the removal of this building is in the public interest. It is a contributory item and no matter which way you look at it, that is the case. I would also reference the judgment of *Helou v Strathfield Municipal Council* [2006] NSW and *Harbour Port Constructions Proprietary Limited v Woollahra Municipal Council*. I think there's a direct parallel between these cases and what we're speaking to here and that simply is that the value of these contributory items (page 16, Public Meeting Transcript).*

51. Members of the public also raised concern about the scale of the Project in the context of the surrounding HCAs. One written submission stated:

In regard to Bancroft Ave if the development is approved it will - Not conform to the existing character of the local area - Have an unacceptable impact on the individually listed Heritage items at 24, 26 and 28 Bancroft Ave (directly opposite the school) - The development will not conserve the heritage significance of the listed items including the associated fabric, setting and views from these items. - The bulk and scale of the development in the vicinity of the listed heritage items does not respect the heritage of these items nor is the development sympathetic to these items.

52. At the Public Meeting, a speaker stated:

With every expansion comes large, out of character buildings which wreck the very character of the surrounding area and diminish the heritage aspect of the Clanville Conservation Area and adjacent heritage areas and, in particular, the streetscapes of Bancroft Avenue and Victoria Avenue (page 13, Public Meeting Transcript).

Traffic and Parking

53. The Commission received written submissions and heard from speakers at the Public Meeting who raised concerns about the traffic impacts from the Project, including congestion, on-street parking and traffic safety impacts. A written submission stated:

...The roads are already congested in the mornings and afternoons and is set to worsen as a result.

54. Another written submission stated:

The capacity afforded by the new building will lead to a significant increase in traffic and reduction in parking during and post construction. Bancroft Avenue and connecting streets are already dangerously jammed at key times.

55. A speaker at the Public Meeting stated:

...my concern is principally around the way that cars use the streets to access the school. There are no sort of purpose-built drop off or pick up zones for the school. There's fairly limited road space for parking given that cars are – the streets are often parked out for people accessing the station and it means that people who are dropping off students at the school are typically using no stopping zones, you know, residents' driveways, pedestrian crossings... and the school seems to have no concerns about this. Virtually on a daily basis I see parents stopping in a no stopping zone next to a pedestrian crossing while teachers on duty are, you know – it's visible and they seem to have no concerns. There's essentially no road safety culture at the school (page 18, Public Meeting Transcript).

56. With reference to a presentation showing images of bus and traffic congestion on Bancroft Avenue in front of the school, the same speaker stated:

Look, buses typically stop in no stopping zones to let out students. Buses will double park, park across residents' driveways, stop in the middle of the roadway. This is all adjacent to a pedestrian crossing... my major concern here is that the development will support increased traffic on these roads. The school does not have the facilities or the culture or programs to use the road safely... (page 20, Public Meeting Transcript).

57. Another speaker stated:

At the moment from 7am in the morning the street gets parked out. The impact of that on the traffic of buses as you've already seen in photographs suggested by other speakers. I'd also just like to point out an untruth, I will call it, in the school's submissions that they provide parking currently for 129 staff and students. I speak to the students on the street because I ask them to move their cars or not to park so close to respect the one metre distance parking rules, and they tell me the school provides no parking for them (page 23, Public Meeting Transcript).

Construction Impacts

58. The Commission received written submissions and heard from speakers at the Public Meeting who raised concern about construction impacts. Particular concern was raised about noise and traffic impacts.

59. A speaker at the Public Meeting stated:

...the Commission shouldn't underestimate the human impact that this has on not only myself and surrounding residents but our families. You know, we think that because of the amount of noise, vibration and so on we may well have to move out of our house for a period of 18 months at great cost to ourselves. We're not sure that we can live here while that construction goes on. We're extremely worried about the damage that'll be caused to our house from the vibration and the construction and it's already having significant mental anguish and harm being caused to our family... (page 16, Public Meeting Transcript).

60. With regard to construction workers using on-street parking in residential areas, another speaker stated:

This large development will have, as the school acknowledges, between 35 and 85 workers. This is going to have an immense impact on the local streets. I fail to see how a construction workers' transport strategy will be put into effect... (page 23, Public Meeting Transcript).

Concern about Additional Future Development

61. The Commission received written submissions and heard from speakers at the Public Meeting who raised concern about potential additional development at Roseville College in the future. Particular concern was raised about the potential future demolition of the existing buildings fronting Bancroft Avenue within the school campus, namely Rose Cottage, the Student Services building and Hobbs House. Members of the public noted that the buildings are not protected by heritage controls and are on land zoned for education uses.

62. While the Commission acknowledges the concerns raised by members of the public, any future development at Roseville College is outside of the Commission's scope for consideration in this instance. The Commission's consideration of this matter is limited to the Application, as described at section 2 of this Statement of Reasons, and the Material before the Commission, described at section 5.2 below.

4 THE DEPARTMENT'S CONSIDERATION OF THE APPLICATION

63. The Department's AR was prepared to set out the Planning Secretary's whole-of-government assessment of the Application. The Planning Secretary, through the Department, considered the Application (including its amendments) with regard to the relevant statutory obligations, supplementary information provided by the Applicant, public submissions and submissions by Government agencies.
64. Table 1 provides an overview of the key steps in the Department's consideration of the Application.

Table 1 Overview of Key Steps

Date	Key Steps
21 March 2019	The Department issued the Planning Secretary's Environmental Assessment Requirements (SEARs).
17 April 2019	Meeting between the Government Architect of NSW and the Applicant.
7 August 2019	Meeting between the Government Architect of NSW and the Applicant.
15 August 2019	Initial consultation meeting between Council and the Applicant.
11 November 2019	The Applicant lodged its Environmental Impact Statement (EIS) and supporting documents to the Department.
10 December 2019	Council issued its first written submission on the Project (objection).
15 November 2019 to 12 December 2019	The Department publicly exhibited the EIS (28 days). A total of 74 submissions were received by the Department during this period, comprising six from public authorities (including an objection from Council), one from a special interest group (objection) and 67 individual public submissions (including 56 objections).
18 December 2019	The Department requested the Applicant provide a response to the submissions received.
28 May 2020	Consultation meeting between the owners of 39 Bancroft Avenue, Roseville, and the Applicant.
June 2020	Representatives of the Department inspected the Site.
16 July 2020	Consultation meeting between Council and the Applicant.
26 August 2020	The Heritage Impact Statement Peer Review, precured by the Department, was completed (prepared by NBRS Architecture).
2 February 2021	The Applicant submitted its Response to Submissions (RtS) and supporting documents (including an additional Statement of Heritage Impact) to the Department.
February 2021	The RtS and amended proposal were made publicly available on the Department's website and were referred to Council and relevant public authorities.
26 March 2021	Council issued its second written submission, which maintained its objection to the Project.
12 April 2021	The Department issued a Request for Information (RFI) to the Applicant.

21 April 2021	The Applicant responded to the Department's RFI.
May 2021	The Department completed its Assessment Report and recommendation.
3 May 2021	The Department referred the Application to the Commission for determination.

65. At section 7 of the Department's AR, the Department concludes that "*any impacts of the proposal could be appropriately managed and mitigated through the recommended conditions of consent*" and that the Project is in the public interest (ARP 7.1.2). Consequently, the Department recommends approval of the Project, subject to conditions.

5 THE COMMISSION'S CONSIDERATION

5.1 The Commission's Meetings

66. As part of its determination process, the Commission met with various persons as set out in **Table 2**. All meeting and site inspection notes were made available on the Commission's website.

Table 2 Commission's Meetings

Meeting	Date of Meeting	Transcript/Notes Available on
Site Inspection	13 May 2021	17 May 2021
Department	13 May 2021	17 May 2021
Applicant	13 May 2021	17 May 2021
Council	13 May 2021	17 May 2021
Public Meeting	27 May 2021	31 May 2021

5.2 Material Considered by the Commission

67. In this determination, the Commission has carefully considered the following material (**Material**), along with other documents referred to in this Statement of Reasons:
- the SEARs issued by the Department, dated 21 March 2019;
 - the Applicant's EIS, dated 11 November 2019, and its accompanying appendices;
 - all submissions made to the Department in respect of the proposed Application during the public exhibition of the EIS, from 15 November 2019 to 12 December 2019, including submissions from members of the public, community organisations and public authorities;
 - the Applicant's RtS, dated 22 January 2021, and its accompanying appendices;
 - the Department's AR, dated May 2021, including material considered in that report;
 - the Department's recommended conditions of consent, dated May 2021;
 - all comments made during the Commission's meetings with the Applicant, Council and Department;
 - the material covered during the Site Inspection;
 - the material presented at the Public Meeting held on 27 May 2021;
 - all speaker comments made to the Commission at the Public Meeting held on 27 May 2021;

- all written comments received and accepted by the Commission up until 5pm on 3 June 2021;
- the Applicant's response to questions taken on notice, dated 25 May 2021;
- the Applicant's response to the Commission's request for information, dated 2 June 2021; and
- the Department's response to the Commission's request for information, dated 2 June 2021.

6 STATUTORY CONTEXT

6.1 State Significant Development

68. As noted in paragraph 3 above, the Application is identified as SSD as it is development for the purpose of alterations or additions to an existing school under clause 15(2) of Schedule 1 of SEPP SRD.
69. Under section 4.5(a) of the EP&A Act and clause 8A(1) of SEPP SRD, the Commission is the consent authority for the Application because the Department received an objection from the local Council and more than 50 unique objections to the Project during the exhibition period.

6.1.1 Permissibility

70. The Site is located on land zoned SP2 Infrastructure (Educational Establishment) under the *Ku-ring-gai Local Environmental Plan (Local Centres) 2012 (KLEP (LC) 2012)* and R2 Low Density Residential zone under the KLEP 2015.
71. The Commission notes ARP 4.2.2, which states:

'Educational establishments' (schools) are permissible with consent in the SP2 zone. The R2 zone is a prescribed zone under clause 33 of [the Education SEPP]. Clause 35(1) of 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. The Commission may therefore determine the carrying out of the development.
72. ARP 4.3.3 describes that the Department has *"consulted with the relevant public authorities responsible for integrated and other approvals, considered their advice in its assessment of the application, and included suitable conditions in the recommended conditions of consent"*. The Commission agrees with the Department that further approvals may be required for the Project and has imposed relevant conditions as recommended by the Department.
73. The Commission notes that the Project would exceed the maximum permissible floor space ratio (**FSR**) development standard under clause 4.4 of the KLEP 2015 for the part of the Site at 37 Bancroft Avenue. The Project proposes an FSR of 0.81:1 at 37 Bancroft Avenue, which exceeds the KLEP 2015 FSR control of 0.3:1. The Commission agrees with the Department's comments at ARP 4.4.3 which state that consent may be granted to a Project for the purpose of a school that is SSD under clause 42 of the Education SEPP, even though the development would contravene a development standard imposed by an environmental planning instrument (**EPI**). Further, the Commission agrees with the Department's comments at ARP 6.2.25 that *"strict compliance with the maximum FSR control under the KLEP 2015 is unnecessary and unreasonable in this circumstance and finds there are sufficient environmental planning grounds to justify contravening the development standard"*.
74. The Commission notes that the remainder of the Site is not subject to a maximum FSR control under KLEP (LC) 2012.

75. Given the above, the Commission considers the proposed development to be permissible with consent.

6.2 Mandatory Considerations

76. In determining this Application, the Commission has taken into consideration the following matters under section 4.15(1) of the EP&A Act (**Mandatory Considerations**) that are relevant to the Application:
- the provisions of the following as they apply to the land on which the Application relates:
 - any EPI;
 - any proposed instrument;
 - any development control plan;
 - any planning agreement that has been entered into under s 7.4 of the EP&A Act (or draft planning agreement offered);
 - matters prescribed under the *Environmental Planning and Assessment Regulation 2000* (**Regulation**);
 - the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality;
 - the suitability of the site for the development;
 - submissions made in accordance with the EP&A Act and Regulation; and
 - the public interest.
77. The Department considered the Mandatory Considerations at section 4.4 of the AR. The Commission agrees with this assessment conducted on its behalf by the Department.
78. The Commission has considered the relevant Mandatory Considerations below, noting the Mandatory Considerations are not an exhaustive statement of the matters the Commission is permitted to consider in determining the Application. To the extent that any of the material does not fall within the Mandatory Considerations, the Commission has considered that material where it is permitted to do so, having regard to the subject matter, scope and purpose of the EP&A Act.

6.2.1 Relevant Environmental Planning Instruments

79. The Commission agrees with the Department's assessment with respect to the EPIs that are of relevance to the Application as set out in Appendix B of the AR.

6.2.2 Relevant Proposed Instruments

80. The Commission has considered relevant proposed EPIs in making its determination.

6.2.3 Relevant Development Control Plans

81. Pursuant to clause 11 of SEPP SRD, development control plans do not apply to SSD. The Commission does not consider any development control plan to be relevant to the determination of the Application.

6.2.4 The Likely Impacts of the Development

82. The potential impacts of the Project have been considered in section 7 of this Statement of Reasons.

6.2.5 The Suitability of the Site for Development

83. The Commission has considered the suitability of the Site. The Commission finds that the Site is suitable for the purposes of a new sport and wellbeing centre within an existing school for the following reasons:

- the Site is located on land zoned SP2 and R2 and the Project is permissible with consent under KLEP 2015, KLEP (LC) 2012, the Education SEPP and the SRD SEPP;
- the Site is not identified as a heritage item (refer to further discussion at section 7.3 below);
- the Project complies with the strategic planning directions of State and Local planning policies (paragraph 29 above);
- the Site includes an existing school and is well placed to support the demand for increased student enrolments in the non-government school sector;
- the Project is an orderly and economic use of the Site and will replace ageing school infrastructure that is no longer fit-for-purpose with new infrastructure on land that is zoned for educational uses;
- environmental impacts have been avoided and mitigated where possible; and
- impacts on surrounding land uses have been minimised and are capable of being further mitigated through conditions on consent.

6.2.6 The Public Interest

84. The Commission has considered the public interest in section 7.8.2 of this report.

6.3 Additional Considerations

85. In determining this Application, the Commission has also considered:

- *North District Plan, 2018*;
- *Educational Facilities Standards and Guidelines (EFSG)*;
- *Greener Places, 2020* (Government Architect NSW);
- *Interim Construction Noise Guideline (ICNG)*;
- *NSW Noise Policy for Industry (NPfi)*; and
- *NSW Road Noise Policy (RNP)*.

7 CONSIDERATION OF KEY ISSUES

7.1 Built Form

86. The Commission acknowledges that the Project's built form, bulk and scale were key concerns raised by Council and members of the public (paragraphs 42 to 44 above).

87. In its submission to the EIS dated 10 December 2019, Council stated:

The proposed SWELL development is considerable in scale and is not consistent with the context of established, mainly single and two storey homes, in an established garden setting. It will dominate this part of Bancroft Avenue and is not in keeping with the surrounding dwelling houses which comprise HCA numbers C32 and C36.

88. The proposed built form was amended by the Applicant in response to submissions received during the public exhibition of the EIS, particularly in response to concerns raised about potential impacts of the built form on the surrounding heritage context and established low density residential character of the area, as described by the RtS.

89. ARP 6.2.16 describes the key built form amendments made through the RtS:

- *an increased side boundary setback to 39 Bancroft Avenue, to enable a greater landscaped buffer zone and provision of deep soil plantings.*
- *a redesign of the Level 3 built form, which substantially 'pulls back' the south-eastern corner of the building away from the eastern side boundary, to reduce the perception of bulk and scale.*
- *a reduction to the building height at its south-eastern corner to ensure that only a small portion of Level 3 would be located on 37 Bancroft Avenue, with the majority of the building bulk being located centrally on the site and within the boundary of the existing school campus.*
- *removal of the skillion roof awning (covered outdoor area) at the eastern side of the rooftop sports courts, to further reduce the perception of bulk and scale.*

90. Additionally, ARP 6.2.5 states that the overall height of the building was reduced as part of the amended proposal from 9.57 metres (RL 92.4) to 9.05 metres (RL 91.5).

91. The Commission notes the Applicant's view that the proposed built form, as amended, is appropriate for the Site and local context. At its meeting with the Commission on 13 May 2021, the Applicant described the recessive nature of the built form, stating:

In terms of its design... you can probably see that the architect's taken quite long lengths to make this building as recessive as possible. Materiality reflects that as well. So what the designer has been trying to achieve is purpose and function but also a recessive but high quality frontage... (page 9, Meeting Transcript).

92. The Commission notes the Applicant's RtS includes a Design Options Analysis Report (dated January 2021, prepared by DFP Planning Consultants). The Report considers six different development options for the Site and finds that when compared to the alternatives, the proposed development "will provide for a significantly better built environment outcome within the Bancroft Avenue streetscape and adjoining heritage conservation area, whilst minimising environmental planning impacts within the locality".

93. The Commission notes the RtS also includes a supplementary Statement of Heritage Impact (SoHI) (dated January 2021, prepared by GBA Heritage). With respect to built form, the SoHI concludes:

- *The proposed development is consistent with the existing form of recent development adjacent to the Clanville HCA and the Lord Street / Bancroft Avenue HCA.*

- *The proposed SWELL Centre will have no adverse impact on the heritage significance of the adjacent Lord / Street Bancroft Avenue HCA.*
 - *The design of the proposed SWELL Centre has been amended to address the Department and Council's concerns, to mitigate any associated impacts and to better respond to the conditions of the site and its immediate context.*
94. The Commission notes that Council's views on the proposed built form remain largely unchanged. In its submission to the RtS dated 26 March 2021, Council stated:
- The proposed development with an approximately 60 metre long elevation, although substantially reduced still remains out of character with the locality. This remains a major issue given its location within the Clanville Conservation area (C32) and in the vicinity of the Lord Street / Bancroft Avenue HCA (C36) and several heritage items...*
95. At its meeting with the Commission on 13 May 2021, Council commented:
- [The Applicant has made] some attempt to reduce the height and the bulk of the building but the Council still believes that it is still out of scale and not in keeping with the streetscape in general. They have tried to attenuate it by increasing setbacks, by increasing landscaping etcetera, by reducing the height of the top floor... [however] that is still our concern that such, you know, a relatively large building, 60 metres long on Bancroft is out of character with the area (page 3 of the Meeting Transcript).*
96. The Department is of the view that *"the built form and design would not result in an unacceptable impact on the character of the surrounding locality"* and *"on balance, the proposed height and scale of the proposal is considered appropriate, having regard to the surrounding development and site constraints"* (ARP 6.2.28).
97. The Department restated this view during its meeting with the Commission on 13 May 2021 (page 5 of the Meeting Transcript).

Commission's Findings

98. The Commission acknowledges that the Applicant has made significant amendments to the proposed built form to address the issues raised in submissions by Council and members of the public. The Commission also acknowledges that the Applicant has designed the Project to be visually recessive when viewed from Bancroft Avenue.
99. The Commission agrees with the Department's view set out in ARP 6.2.22 that the bulk, scale and height of the Project is acceptable given that the development:
- would be lower than several of the existing school buildings;
 - would be substantially setback from the Bancroft Avenue street frontage;
 - responds appropriately to the sloping topography of the Site;
 - would be partly located below ground level and would present as a one to two level building from Bancroft Avenue; and
 - would comply with the maximum building height control under the KLEP 2015.

7.2 Landscaping

100. The Commission acknowledges that the proposed landscaping was a key discussion point raised by the Applicant, Council and the Department.
101. ARP 2.5.1 and 2.5.2 state:

The proposal includes a comprehensive landscape master plan comprising both hard and soft landscaping, including planting of trees, shrubs, and groundcovers.

The two primary landscaped areas include the Bancroft Avenue street frontage and the area between the eastern facade of the proposed new building (within the new expanded school campus), and the boundary to the adjoining residential property at 39 Bancroft Avenue.

102. The Commission notes that the proposed landscape design was amended by the Applicant in response to submissions received during the public exhibition of the EIS, as described by the RtS.

Landscaping to Bancroft Avenue (Northern Boundary)

103. At its meeting with the Commission on 13 May 2021, the Applicant stated their intention to maintain the existing landscape character of Bancroft Avenue. The Applicant commented:

...there hasn't been a desire to amend that Bancroft Street [sic] frontage through this process. So landscaping has played an important role in this, because there's a status quo of Bancroft Street's [sic] streetscape character that is retained along this frontage... (page 9, Meeting Transcript).

104. The Commission notes Council's view in its submission to the RtS (dated 26 March 2021) that the Project is out of context with the established garden setting and heritage context of the area.
105. The Commission notes the Department's view at ARP 6.4.20 that the "*retention of the established garden setting and additional tree plantings along Bancroft Avenue would provide a positive contribution to the landscaped streetscape*".
106. ARP 2.5.3 confirms that "*all street trees located outside the boundary of the site and along Bancroft Avenue frontage would be retained and would form key features of the site's overall landscape design*".

Landscaping to 39 Bancroft Avenue (Eastern Boundary)

107. The Commission notes that the Applicant met with Council on 16 July 2020 (prior to the Applicant's submission of the RtS) to discuss the revised built form and landscape scheme, including the proposed increased side boundary setback to 39 Bancroft Avenue to provide for an increased landscape buffer and soil depths for soft landscape elements. After this meeting, Council provided written comments to the Applicant, which are included in the RtS. Council commented that "*the amended plans are an improvement for landscape outcomes*" (RtS page 15). Regarding the proposed landscape screening to the eastern side boundary setback, Council commented "*the amended eastern setback to a minimum 3.0m has greatly improved the ability for the development to provide appropriate amenity planting inclusive of evergreen screening shrubs and a mix of small deciduous and evergreen trees*" (RtS page 15).
108. At its meeting with the Commission on 13 May 2021, Council commented that its landscape officer considered the revised landscape plan to be significantly improved and the proposed eastern setback to be appropriate to allow for tree planting. Council noted that the trees were proposed to be deciduous to reduce overshadowing impacts to 39 Bancroft Avenue during winter (page 5 of the Meeting Transcript).
109. At its meeting with the Commission on 13 May 2021, the Applicant commented:
- Council made representation of what plans they would like to see in there, and the next-door neighbour also made some suggestions as well. They didn't fully align at the time, so I believe that the landscape architect has chosen plants and a range of plants in there that would be amenable to both parties... (page 7, Meeting Transcript).*
110. Further, the Applicant commented:
- There was conversation around whether those trees would be better off being deciduous or evergreen. As you can imagine there's probably benefits and pitfalls to both. [The neighbour] has a pool. He also wants to... maintain privacy throughout the year, and we were essentially led on that discussion by Council who had some very*

specific requirements. So what's reflected there is taking into account as much of what the neighbour would like to ask with what Council's landscape officer was willing to agree to (page 10, Meeting Transcript).

111. The Commission notes the Department's view at ARP 6.4.23:

The proposed landscape master plan for the site provides deep soil plantings along the eastern site boundary and rooftop planter at Level 3 with trellis that would provide adequate screening and visual privacy to 39 Bancroft Avenue from the rooftop sports courts.

Tree Removal

112. Table 9 of the Department's AR states:

The Arborist Report submitted with the EIS identified 26 trees for removal... The submissions received from Council and the public requested the mature Himalayan Cedar tree (Tree 7) on Bancroft Avenue be retained due to its contribution to the Bancroft Avenue streetscape.

113. In its submission to the EIS dated 10 December 2019, Council noted the heritage value and visual importance of 'Tree 7' and argued that there is "no arboricultural justification for its removal".
114. The Applicant stated in its RtS that as a result of ongoing consultation with Council, Tree 7 is proposed to be retained as part of the amended proposal.
115. Given that the tree is proposed to be retained, Council raised no further issues regarding tree removal in its subsequent submission to the RtS or in its meeting with the Commission on 13 May 2021.
116. The Department is of the view that the retention of 'Tree 7' would result in a positive outcome for the Site because of the tree's visual prominence and contribution to the heritage streetscape (Table 9, Department's AR).

Commission's Findings

117. The Commission sees landscaping as a key design feature of the Project and has given significant consideration to the Applicant's proposed landscaping treatment.
118. The Commission considers that the proposed landscaping to the Bancroft Avenue frontage of the Site will assist in reducing the visual impacts of the Project and maintaining the existing landscape character of the street (refer also to section 7.6 below).
119. The Commission acknowledges the Applicant's efforts to minimise the impact of the Project on 39 Bancroft Avenue. The Commission is of the view that landscaping is an important measure to mitigate visual impacts and privacy impacts to 39 Bancroft Avenue, but must be balanced to ensure solar access is maintained to the property. The Commission is of the view that tree species used along the boundary with 39 Bancroft Avenue should be carefully selected in consultation with the owners of 39 Bancroft Avenue. The Commission is of the view that a continuous row of trees is not appropriate. There should be a mix of native and deciduous trees set out informally to provide maximum solar access.
120. The Commission notes the Applicant's efforts to retain Tree 7 and agrees with the Department that the tree contributes to the Bancroft Avenue streetscape. The Commission is therefore of the view that Tree 7 should be retained and maintained post construction with input from a qualified Arborist.
121. The Commission has imposed a condition that requires the Applicant to complete landscaping of the Site in accordance with the Landscape Masterplan and associated Landscape Planting Plan, and to ensure ongoing landscaping maintenance.

7.3 Heritage Impacts

122. The Commission notes that part of the Site (37 Bancroft Avenue) is located within the Clanville HCA (C32) under the KLEP 2015 but is not identified as a heritage item itself. Additionally, the Site is located adjacent to the Lord Street / Bancroft Avenue HCA (C36), as illustrated in **Figure 3** above.
123. In its submission to the EIS dated 10 December 2019, Council stated:
- The bulk and scale of the proposed large SWELL development within a Heritage Conservation Area is excessive and totally out of scale with the existing streetscape, clearly not conforming to the existing character of the area.*
124. Further, Council stated:
- The dwelling at No 37 Bancroft Avenue is part of the HCA which has high aesthetic significance as a cohesive early twentieth century and interwar development. The proposed demolition of the house and garden will have an adverse impact on the HCA.*
125. The Commission notes that in its submission to the EIS, Council stated that it considers the Project's proposed materials and finishes to be recessive and to appropriately reference the traditional finishes of the HCA, including the use of dark face brick and timber. Council therefore considered the Project's proposed materials and finishes to be acceptable.
126. In its subsequent submission to the RtS and at its meeting with the Commission on 13 May 2021, Council restated its view that the development is not in keeping with the heritage context of the area, as described at paragraphs 95 and 96 above.
127. At its meeting with the Commission on 13 May 2021, Council's Heritage Adviser described Council's view of the proposed demolition of 37 Bancroft Avenue, stating:
- ...in the heritage controls, the Ku-ring-gai DCP, we have demolition controls and when a building's contributory, we don't allow demolition unless the building is, you know, in – it's totally in disrepair or, you know, it's got major structural issues and then in saying that they have to prove that that is the case. Well, in this case this building is solid. There's nothing wrong with it. So it does go against that control.*
128. The Applicant's RtS explains that the Design Options Analysis Report assesses different development options considered for the Project, including options which retain the existing dwelling at 37 Bancroft Avenue. The Report describes that the development options that retain 37 Bancroft Avenue generally require demolition of highly utilised school infrastructure, and in some options, demolition of the existing Rose Cottage, Student Services building and Hobbs House fronting Bancroft Avenue. The Report notes that loss of existing school infrastructure would create operational and economic impacts to the viability of the Project, and loss of the cottages fronting Bancroft Avenue would negatively impact the visual amenity and character of Bancroft Avenue. As noted at paragraph 92 above, the Design Options Analysis Report finds that when compared to the alternative options, the proposed scheme provides for the best built environment outcome within the Bancroft Avenue streetscape and adjoining HCA.
129. The Commission notes the SoHI, prepared as part of the Applicant's RtS, states:
- This impact assessment finds that the demolition of 37 Bancroft Avenue would result in the loss of a c.1911 restrained Federation bungalow and the erasure of the current interface with the Clanville HCA. However, the demolition of 37 will protect and retain 27-31 Bancroft Avenue, which are better quality examples of their style, more prominent on the street and significant to the College and community. It also locates the bulk of the SWELL Centre away from the Lord Street/ Bancroft Avenue HCA and the heritage items in the vicinity, thus protecting their settings. Further, the impact*

assessment finds that the revised design has been suitably amended to reduce the College's expansion into the Clanville HCA and the SWELL Centre's impact on the streetscape and historic character of the surrounding HCAs.

130. The Commission notes the Department's views set out at ARP 6.3.36 to 6.3.45, which describe how the Department generally agrees with the findings of the SoHI.
131. The Department notes at ARP 6.3.39 that the Applicant made design amendments to address the recommendations of the Heritage Peer Review (prepared by NBRS and dated 26 August 2020) to minimise impacts associated with the demolition of the dwelling at 37 Bancroft Avenue and on the surrounding HCAs.
132. The Department agrees with the findings of the SoHI that *"the school's existing Federation and Interwar buildings at 27, 29 and 31 Bancroft Avenue (Hobbs House, the Student Services building and Rose Cottage) provide a significant contribution to the heritage character of the Bancroft Avenue streetscape, despite these buildings not being located within a defined HCA"*. The Department considers *"these buildings to be better quality examples of Federation and Interwar styles and are more prominent features of the streetscape, when considered in context to the dwelling at 37 Bancroft Avenue"* (ARP 6.3.40).
133. The Commission notes the Department is *"satisfied the proposal would result in the ongoing historic use of the school site, which has operated as a school since 1908 and that the impact of the new built form elements would be mitigated through the retention of the Bancroft Avenue street trees and front garden setting at 37 Bancroft Avenue to reduce the visual impact of the proposal"* (ARP 6.3.38).

Planning Principles

134. The Commission acknowledges that at the Public Meeting a member of the community cited two judgments of the Court that considered demolition of contributory items within HCAs (page 16, Public Meeting Transcript). As quoted at paragraph 50 above, the cases referred to were *Helou v Strathfield Municipal Council* [2006] NSWLEC 66 and *Harbour Port Constructions Pty Limited v Woollahra Municipal Council* [2004] NSWLEC 283.
135. The Commission notes that both judgments were in the Class 1 merits jurisdiction of the NSW Land and Environment Court, and that as decisions on the merits, neither of the judgments set precedents binding on the Commission in terms of outcome.
136. The Commission notes that in its determination of the more recent case (*Helou*), the Court established a Planning Principle relevant to a consent authority's consideration of the demolition of items of contributory heritage significance. The Planning Principle is applied as a series of six questions. The Commission's consideration of 37 Bancroft Avenue against the Planning Principle is set out below.

a. What is the heritage significance of the conservation area?

The Commission notes the statement of significance for the Clanville HCA provided in the SoHI states that *"the HCA has high aesthetic significance as a cohesive early twentieth century and Interwar development and for the high proportion of quality houses"*.

b. What contribution does the individual building make to the significance of the conservation area?

The Commission notes that the SoHI finds that the dwelling at 37 Bancroft Avenue does contribute to the historic suburban character of the HCA, however its *"contribution to the significance of the Clanville HCA is limited to its front facade and street presence"*. The Commission notes that alterations and additions to the building's internal layout and side and rear elevations have compromised its original fabric.

c. *Is the building structurally unsafe?*

The Commission understands the dwelling at 37 Bancroft Avenue is structurally safe and is currently tenanted.

d. *If the building is or can be rendered structurally safe, is there any scope for extending or altering it to achieve the development aspirations of the applicant in a way that would have a lesser effect on the integrity of the conservation area than demolition?*

The Commission notes the conclusions of the Design Options Analysis Report and recommendations of the SoHI which find that when compared to the alternative development options, the proposed scheme provides for the best built environment outcome within the Bancroft Avenue streetscape and adjoining HCA. As such, there is no scope for adapting the existing dwelling house at 37 Bancroft Avenue to achieve the development objectives of the Applicant.

e. *Are these costs so high that they impose an unacceptable burden on the owner of the building?*

For the reasons provided at (d) above, the financial cost of restoration is not relevant for consideration.

f. *Is the replacement of such quality that it will fit into the conservation area?*

For the reasons provided at (d) above, the quality of restoration is not relevant for consideration. The Commission is satisfied that the impact of the new built form can be minimised through the retention of the Bancroft Avenue street trees and front garden setting at 37 Bancroft Avenue.

137. With regard to the application of the Planning Principle established by *Helou*, the Commission notes the SoHI which states that the established Planning Principle “*applies only to infill development in the context of the demolition of contributory items in a HCA. Given the proposal is not classified as infill development, this planning principle is not applicable*”. The Commission acknowledges this interpretation of the Planning Principle, however considers that there is benefit in considering its application, as provided at paragraph 136 above.

Commission's Findings

138. The Commission agrees with the findings of the SoHI that the buildings at 27, 29 and 31 Bancroft Avenue are quality examples of their style and contribute to the character of Bancroft Avenue. The Commission agrees with the Department that the protection and retention of these buildings is preferable to the retention of 37 Bancroft Avenue.
139. The Commission notes the SoHI states “*Roseville College has a strong presence in the community and a long history of slowly expanding its campus across neighbouring sites since its founding in 1908. The acquisition and consolidation of 37 Bancroft Avenue is in keeping with this historic pattern of development that has allowed the school to grow over time while remaining in its original location*”. The Commission agrees that the Project is in keeping with the school’s historic pattern of development.
140. The Commission acknowledges the community’s concern about the proposed demolition of 37 Bancroft Avenue. On balance, the Commission considers that the demolition of the dwelling house is acceptable for the reason stated at paragraph 139 above. The Commission does not consider that the removal of the dwelling house at 37 Bancroft Avenue will create a precedent for demolition of contributory items in the area or diminish the value of the Clanville HCA.
141. The Commission agrees with the views of the Department that the heritage impact of the Project is acceptable and would be appropriately mitigated through the recommended conditions of consent.

142. The Commission has imposed relevant conditions, including the requirement to prepare a Heritage Interpretation Plan.
143. The Commission has also imposed conditions requiring unexpected finds protocols to be developed for Historic Heritage and Aboriginal Heritage.
144. The Commission has imposed a condition requiring the preparation of an archival photographic record of 37 Bancroft Avenue, in accordance with NSW Heritage Branch guidelines, prior to demolition.

7.4 Traffic and Parking

145. The Commission notes that traffic congestion, on-street parking impacts and traffic safety were significant concerns raised in verbal submissions during the Public Meeting and in written submissions made by members of the public (described in paragraphs 53 to 57 above).

Construction Traffic

146. ARP 6.5.9 states that the Preliminary Construction Traffic Management Plan (**CTMP**), prepared by the Applicant and submitted with the EIS, aims to minimise the impact of construction vehicle traffic on the road network and ensure safe traffic movements. The Preliminary CTMP anticipates a construction timeframe of 22 weeks, with major works proposed to take place during the school holiday periods.
147. The Preliminary CTMP considers that the construction traffic volumes would result in minimal disruption to the surrounding road network.
148. The Commission notes that the Department accepts the findings of the Preliminary CTMP (ARP 6.5.17) and has recommended a condition requiring the Applicant to prepare a detailed CTMP in consultation with Council and TfNSW prior to the commencement of construction. ARP 6.5.17 states that the Department has “*also recommended a condition requiring the Applicant to prepare a Driver Code of Conduct to minimise road traffic noise and ensure drivers use only the approved construction traffic routes*”.
149. ARP 6.5.15 states that Council and TfNSW did not raise any concerns in relation to construction traffic and parking.

Operational Traffic

150. ARP 6.5.20 states that the Applicant prepared a Traffic Impact Assessment (**TIA**) (prepared by PTC, dated 25 October 2019) that was submitted with the EIS and assesses traffic impacts caused by the Project. The TIA was amended to address submissions received and resubmitted by the Applicant as part of the RtS (prepared by PTC, dated 16 October 2020).
151. ARP 6.5.28 states that the Department accepts the findings of the TIA, which concluded the Project would have an acceptable impact on the surrounding local road network and that the intersections in proximity to the site would continue to operate at an acceptable level of service.
152. The Commission notes the Department’s comment at ARP 6.5.26 that “*the proposal does not seek to increase the school’s population and that the school’s approved maximum population of 1,250 students to the year 2030 was previously assessed and approved by Council as part of DA0261/16 in April 2017*”.
153. The Commission requested the Applicant provide information regarding questions taken on notice during its meeting with the Commission on 13 May 2021 about the traffic management arrangements at the Recreation Avenue access to the Site. The Applicant’s response (prepared by PTC, dated 24 May 2021) was published on the Commission’s website on 25 May 2021.

Commission's Findings

154. The Commission acknowledges the concerns raised by members of the community at the Public Meeting and in submissions received in relation to construction workers using on-street parking in proximity to the Site and impacting on the amenity of the street.
155. The Commission has imposed a condition requiring the Applicant to prepare a Construction Worker Transport Strategy (**CWTS**) prior to the commencement of construction to detail the parking facilities provided for construction workers, or other travel arrangements, to minimise the demand for on-street parking in nearby residential areas.
156. The Commission also acknowledges the concerns raised by members of the community at the Public Meeting and in submissions received in relation to existing and potential future operational traffic impacts, especially on Bancroft Avenue.
157. The Commission has imposed a condition requiring the Applicant to prepare a Green Travel Plan (**GTP**) to promote the use of active and sustainable transport modes and to discourage the use of single vehicle trips, and therefore reduce vehicle congestion. The Commission has also imposed a condition requiring the preparation of an Operational Transport and Access Management Plan to ensure safe vehicle movements at all drop-off and pick-up zones, and to manage bus and coach movements along Bancroft Avenue.
158. The Commission accepts the Applicant's response to questions taken on notice (prepared by PTC, dated 24 May 2021) regarding the traffic management arrangements at the Recreation Avenue access to the Site. The Commission has imposed a condition to ensure safe access is maintained during operation of the carpark entry to the public recreation path connecting Bancroft Park to the end of Recreation Avenue.

7.5 Noise

159. The Department's AR states that "*operational noise sources would primarily include the operation of mechanical plant and use of the rooftop sports courts*" (ARP 6.4.3) and construction noise is likely during "*the demolition of existing structures, excavation works, the use of pneumatic drills and hammers, power tools and vehicles accessing and exiting the site*" (ARP 6.4.13).
160. The Applicant's RtS includes an Acoustic Assessment (prepared by Acoustic Dynamics, dated 2 November 2020), which finds "*the proposal will not give rise to unacceptable noise, subject to the implementation of a number of recommendations which can be incorporated into future Construction Certificate documentation*" (page 21 of the RtS).
161. The Department's AR summarises the recommendations of the Acoustic Assessment at ARP 6.4.6 and 6.4.7, stating:

Recommended measures to mitigate noise emissions associated with the use of mechanical plant included:

- *the installation of silencers to achieve the sound level reductions at each mechanical vent.*
- *orientating exhaust and supply vents to the west (away from residential receivers).*
- *implementation of an appropriately sealed acoustic enclosure for the proposed pool pump.*

Recommended measures to mitigate noise emissions associated with the use of the rooftop sports courts included provision of a two metre high noise barrier with one metre high cantilevered canopy along the northern and north-western boundary (to Bancroft Avenue) and the eastern boundary adjacent (to 39 Bancroft Avenue) of the courts to provide adequate shielding to the adjacent receivers...

162. The Commission notes ARP 6.4.12 which states the Department *“is satisfied the proposal would operate in accordance with the noise criteria”* subject to the inclusion of acoustic treatments and operational measures recommended in the Acoustic Assessment.
163. The Commission notes Council did not raise any concerns in relation to operational noise impacts (ARP 6.4.10).
164. The Commission acknowledges that members of the community raised significant concern about the recommended acoustic barrier during the Public Meeting and in submissions received by the Commission due to its bulk and scale, visual and amenity impact, heritage impact and potential overshadowing impacts.
165. The Commission requested the Department provide additional information about the proposed acoustic barrier and confirm if it had been considered from a heritage perspective. The Department’s response (dated 2 June 2021) was published on the Commission’s website on 3 June 2021. The Department’s response to the Commission clarified that the recommended acoustic barrier would comprise a *“two metre high screen with a one metre high cantilevered canopy (or a three metre high screen) inside the perimeter of the rooftop sports courts”* with recommended materials including Colorbond, masonry (brick or concrete), compressed fibre-cement sheeting on timber or steel stud or Perspex.
166. Additionally, the Commission acknowledges that members of the community raised concern about construction noise impacts.

Commission’s Findings

167. The Commission agrees with the measures recommended by the Acoustic Assessment to mitigate noise emissions associated with the use of mechanical plant, as described at paragraph 161 above.
168. The Commission has considered the impact of the acoustic barrier recommended by the Acoustic Assessment. The Commission notes that:
 - sports courts are an existing use at the Site;
 - the proposed new sports courts will be situated in an elevated position on the roof of the development;
 - the sports courts are not permitted to be used out-of-hours or by members of the public;
 - the sports courts are not permitted to be used at night and will have no external lighting (as described in the Applicant’s response to the Commission, dated 2 June 2021); and
 - the sports courts are not permitted to be used for events (as described in the Applicant’s response to the Commission, dated 2 June 2021).
169. The Commission finds that on balance, the inclusion of an acoustic barrier would cause disproportionate visual and amenity impacts on the surrounding area and HCAs compared to the mitigation of possible acoustic impacts caused by sporting activities on the roof-top sports courts by students during permitted operation hours that would be achieved by the barrier. The Commission is of the view that the use of management measures, such as teacher supervision during sporting activities, low noise emitting equipment, and limited hours of use, should be used in lieu of an acoustic barrier that would otherwise increase the height and scale of the development. The Commission therefore has not required the construction of an acoustic barrier as a condition of consent.
170. Regarding construction noise impacts, the Commission has imposed a construction hours condition, including limited hours for noisy activities such as rock breaking.

7.6 Visual Amenity and Privacy

171. The potential visual impacts of the Project from Bancroft Avenue and the adjoining residence at 39 Bancroft Avenue have been considered by the Commission.
172. The Applicant is of the view that the Project would “*result in minimal visual impact and would not obstruct any prominent views or vistas*” and that “*the proposal has been designed to present as a one to two storey building from Bancroft Avenue that would result in a building that is not visually prominent within the streetscape*” (ARP 6.4.17).
173. The Applicant’s SoHI, which was submitted with the RtS, states that “*the amended proposal would result in a reduced impact on the streetscape and historic character of the surrounding HCAs and... would not generate any unacceptable or adverse impacts on existing views*” (ARP 6.3.24).
174. As discussed in paragraphs 94 and 95 above, Council maintains its view that the Project’s built form would appear too large in the context of Bancroft Avenue and would thereby impact the visual amenity of local residents.
175. ARP 6.3.39 states that “*the Department is satisfied the design amendments that were made to the proposal as part of the RtS... would minimise the visual impact of the proposed built form on the Clanville HCA, the adjacent Lord Street/Bancroft Avenue HCA and surrounding listed heritage items*”.
176. With regard to visual privacy to 39 Bancroft Avenue, the Commission notes the Applicant’s view:

The reduced bulk and scale of the development, removing the rooftop/sports court skillion roof and the increased setback from 39 Bancroft Avenue is considered to significantly reduce any potential amenity impacts which were arising from the original SSDA proposal. There are no windows along the eastern boundary wall proposal. The classroom level is significantly setback from the eastern boundary and is not considered to create any privacy impacts. Visual screening is also provided at the sports court level.

177. The Commission notes that Council’s original concerns regarding visual privacy to 39 Bancroft Avenue were satisfied through the RtS.
178. The Commission notes the Department’s views at ARP 6.4.22 and 6.4.23:

The Department considers that the siting and orientation of the proposed development would ensure the privacy of adjacent residential properties would be maintained. There are no windows proposed along the eastern boundary wall and the few windows proposed at Level 3 are appropriately setback to ensure the GLAs do not overlook the private open space area at the rear of 39 Bancroft Avenue.

Further, the proposed landscape master plan for the site provides deep soil plantings along the eastern site boundary and rooftop planter at Level 3 with trellis that would provide adequate screening and visual privacy to 39 Bancroft Avenue from the rooftop sports courts.

Commission’s Findings

179. The Commission acknowledges that the Applicant has endeavoured to design a recessive building with a high-quality frontage to Bancroft Avenue and significant landscaping to retain the established vegetated character of Bancroft Avenue (as discussed at paragraph 91 above). The Commission agrees with the Department and the Applicant that the proposed development would not generate an unacceptable visual impact.
180. As described at paragraph 169 above, the Commission is of the view that an acoustic barrier is not appropriate at the roof-top sports courts because it would cause additional and unwarranted visual and amenity impacts on the surrounding area and HCAs.

7.7 Other Issues

Lighting

181. The Commission notes that members of the public raised concerns in submissions about possible impacts to residential amenity caused by lighting of the sports courts during the evening.
182. At its meeting with the Commission on 13 May 2021, the Applicant confirmed that neither lighting, nor evening use of the sports courts is proposed (page 9, Meeting Transcript).
183. The Commission requested the Applicant provide further information about all proposed outdoor lighting at the Site. The Applicant's response (prepared by DFP Planning and dated 2 June 2021) was published on the Commission's website on 3 June 2021. The Commission sought additional submissions from the public on the new Material.
184. The Commission is satisfied with the Applicant's response that appropriate lighting is proposed for the Project. The Commission has also imposed conditions with regard to outdoor lighting.

Signage

185. The Commission notes the Project includes new identification signage at the Bancroft Avenue frontage, which would be approximately 3 metres long and 1.2 metres from ground level (ARP 2.4.1).
186. The Commission agrees with the Department's consideration of the proposed signage against the relevant criteria of *State Environmental Planning Policy No 64—Advertising and Signage (SEPP 64)* and agrees that the scale, location and colours of the proposed signage will not detract from the character of the area.
187. The Commission has imposed a condition that requires the signage to be non-illuminated.

Hours of Operation

188. Table 2 of the Department's AR states that the school's hours of operation will be 7.00am to 6.00pm Monday to Friday (school use) and 7.00am to 2.00pm on Saturdays (out-of-hours use and community use).
189. The Commission notes that the school's existing facilities are currently used for limited out-of-hours events. The Commission notes ARP 1.4.7 which describes the "*after-school learn-to-swim program that operates from the school's existing outdoor swimming pool during the spring and summer school terms and Christmas school holidays*".
190. ARP 6.4.11 describes that the Department has recommended conditions of consent to mitigate and manage any potential operational impacts, including requirements for the Applicant to "*prepare an Out-of-Hours Event Management Plan for events that would involve 100 or more people, including measures to minimise noise impacts on surrounding sensitive receivers*".
191. The Commission has imposed a condition that requires the Applicant to prepare and implement an Out of Hours Event Management Plan.

Community Use of Facilities and Events

192. The Commission notes that existing out-of-house activities at Roseville College include "*an after-school learn-to-swim program that operates from the school's existing outdoor swimming pool during the spring and summer school terms and Christmas school holidays*" (ARP 1.4.7).
193. The Commission acknowledges that the Applicant intends to continue to provide a learn-to-swim program. No out-of-hours public use of the roof-top sports courts is proposed.

194. The Commission requested the Applicant provide further information about the number of proposed out-of-hours events at the Site. The Applicant's response (prepared by DFP Planning and dated 2 June 2021) was published on the Commission's website on 3 June 2021. The Commission sought additional submissions from the public on the new Material.
195. The Commission is satisfied with the Applicant's response which describes that no new events are proposed as a result of the Project.
196. The Commission has imposed a condition which requires the Applicant to prepare an Out-of-Hours Event Management Plan for events that would involve 100 or more people in consultation with Council.

Overshadowing

197. The Commission has imposed a condition requiring the Applicant to consult with the owners of the residential property at 39 Bancroft Avenue prior to selecting trees and screening vegetation at the eastern boundary of the Site to ensure that overshadowing impacts are minimised.

7.8 Objects of the EP&A Act and Public Interest

7.8.1 Objects

198. In this determination, the Commission has carefully considered the Objects of the EP&A Act. The Commission is satisfied with the Department's assessment of the Application against the Objects of the EP&A Act provided at Table 3 of the AR, which finds that the Project is consistent with those Objects.
199. The Commission finds the Application has been assessed in accordance with relevant EPIs and is capable of complying with the required mitigation measures to achieve consistency with the Objects of the EP&A Act.

Ecologically Sustainable Development

200. At ARP 4.4.6, the Department states that the Project includes ecologically sustainable development (**ESD**) measures to achieve a "*minimum 4-Star Green Star rating or equivalent*", including:
 - *natural ventilation where possible to minimise energy consumption from mechanical systems;*
 - *capturing of rainwater to be re-used for irrigation and building services;*
 - *energy-efficient building services, lighting and equipment using best practice approaches and products;*
 - *a high degree of thermal efficiency and optimisation of mechanical ventilation systems;*
 - *heat recovery ventilation to reduce the swimming pool's air heating load throughout the year; and*
 - *external shading.*
201. The Commission is satisfied with the Department's assessment of the Project under the ESD principles and finds that the precautionary and inter-generational equity principles have been applied via a thorough and rigorous assessment of the potential environmental impacts of the Project.
202. The Commission finds the Project promotes ESD and is consistent with the precautionary and inter-generational principles subject to the imposed conditions.

7.8.2 Public Interest

203. The Commission has considered whether the Project is in the public interest in making its determination. The Commission has weighed up the benefits of the Project against the impacts and the proposed minimisation and mitigation measures to reduce impacts.
204. The Commission finds that the Project will provide a range of public benefits, including providing new fit-for-purpose education facilities within an existing school while minimising impacts to the existing school operation, and providing construction and operational jobs.
205. The Commission finds that on balance, and when weighed against the Objects of the EP&A Act, the principles of ESD and the benefits of the Project, the impacts of the Project are acceptable and can be appropriately managed and mitigated through the requirements of conditions of consent imposed by the Commission.
206. For the reasons above, the Commission finds the Project to be in the public interest.

8 CONCLUSION: THE COMMISSION'S FINDINGS AND DETERMINATION

207. The views of the community were expressed through public submissions and comments received (as part of exhibition and as part of the Commission's determination process), as well as in presentations to the Commission at the Public Meeting. The Commission carefully considered all of these views as part of making its decision.
208. The Commission has carefully considered the Material before it as set out in section 5.2 of this report. Based on its consideration of the Material, the Commission finds that the Project should be approved subject to conditions of consent for the following reasons:
- the Site is located on land zoned SP2 and R2 and the Project is permissible with consent under KLEP 2015, KLEP (LC) 2012, the Education SEPP and the SRD SEPP;
 - the Project complies with the strategic planning directions of State and Local planning policies;
 - the Site includes an existing school that is well placed to support the demand for increased student enrolments;
 - the Project is an orderly and economic use of the Site and will replace ageing school infrastructure that is no longer fit-for-purpose with new infrastructure on land that is zoned for educational uses;
 - environmental impacts have been avoided and mitigated where possible; and
 - impacts on surrounding land uses have been minimised and are capable of being further mitigated through conditions on consent.
209. For the reasons set out in paragraph 208, the Commission has determined that consent should be granted subject to conditions. These conditions are designed to:
- prevent, minimise and/or offset adverse environmental impacts;
 - set standards and performance measures for acceptable environmental performance;
 - require regular monitoring and reporting; and
 - provide for the on-going environmental management of the development.
210. The reasons for the Decision are given in the Statement of Reasons for Decision dated 18 June 2021.



Peter Duncan AM
Member of the Commission



Adrian Pilton
Member of the Commission

APPENDIX A

Table 3 Main Components of the Project (source: Department's AR Table 2)

Aspect	Description
Project summary	Construction and operation of a new Sport and Wellbeing Centre and expansion of the existing school campus
Site area	20,621 square metres
Site establishment works	<ul style="list-style-type: none"> • Demolition of outdoor sports courts • Demolition of the dwelling, ancillary structures and hardstand areas at 37 Bancroft Avenue • Removal of 25 trees • Excavation works
Built form and uses	<p>Construction of a three-level building incorporating the following:</p> <ul style="list-style-type: none"> • Level 1: <ul style="list-style-type: none"> ○ basement carpark ○ eight-lane indoor swimming pool, associated concourse and grandstand ○ change facilities and amenities ○ chemical store, filtration and mechanical plant rooms • Level 2: <ul style="list-style-type: none"> ○ basement carpark ○ gym ○ GLAs ○ plant room and on-site stormwater detention (OSD) • Level 3: <ul style="list-style-type: none"> ○ nutrition and food technology space ○ GLAs ○ rooftop multi-purpose sports courts and enclosed verandah ○ sports equipment storage
Building height	9.05 metres (maximum)
Gross floor area	2.689 square metres
Floor space ratio	0.72:1
Car parking	<p>48 additional car parking spaces, including:</p> <ul style="list-style-type: none"> • 25 basement spaces at Level 1 • 23 basement spaces at Level 2
Vehicle access	<ul style="list-style-type: none"> • Level 1: via a new connection from the existing basement carpark in the Joy Yeo Centre • Level 2: via a new access driveway from Recreation Avenue

Landscaping	<ul style="list-style-type: none"> • Landscape master plan including: <ul style="list-style-type: none"> ○ tree plantings and hedges along Bancroft Avenue ○ rooftop sports courts surrounded by trellis to accommodate plantings with soft and hard ground covers ○ mid-storey columnar screen trees, rooftop planter and trellis screening along the eastern elevation
Signage	Business identification sign fronting Bancroft Avenue
Hours of operation	<ul style="list-style-type: none"> • 7am to 6pm Monday to Friday (school use) • 7am to 2pm Saturday (community use)
CIV	\$29,546,952
Jobs	69 construction jobs and three operational jobs