



Santa Sophia Catholic College SSD 9772

Statement of Reasons for Decision

Dr Peter Williams (Chair)
Carol Austin
Wendy Lewin

21 April 2020

21 April 2020 Final Report ©
State of New South Wales through the Independent Planning Commission 2020

Independent Planning Commission NSW
Level 3, 201 Elizabeth St Sydney NSW Australia
Telephone: (02) 9383 2100
Email: ipcn@ipcn.nsw.gov.au
ABN: 38755709681

Disclaimer:

While every reasonable effort has been made to ensure that this document is correct at the time of publication, the State of New South Wales, its agencies and employees, disclaim all liability to any person in respect of anything or the consequences of anything done or omitted to be done in reliance upon the whole or any part of this document.

The Independent Planning Commission NSW advises that the maps included in the report are to give visual support to the discussion presented within the report. Hence information presented on the maps should be seen as indicative, rather than definite or accurate. The State of New South Wales will not accept responsibility for anything, or the consequences of anything, done or omitted to be done in reliance upon the mapped information.

TABLE OF CONTENTS

1	INTRODUCTION	1
2	THE APPLICATION	1
2.1	Site and locality	1
2.2	Need and Strategic Context	2
3	THE DEPARTMENT’S CONSIDERATION OF THE APPLICATION	2
4	THE COMMISSION’S CONSIDERATION.....	3
4.1	The Commission’s Meetings and Site Inspection	3
4.2	Public Comments	4
4.3	Material Considered by the Commission	4
4.4	Mandatory Considerations	4
4.5	Environmental Planning Instruments.....	5
4.6	Additional Considerations.....	5
4.7	Planning Agreements	5
4.8	Site Suitability.....	5
4.9	Built Form and Urban Design	10
4.10	Safety	13
4.11	Other Issues.....	15
4.12	Objects of the EP&A Act & Public Interest	16
5	CONCLUSION: THE COMMISSION’S FINDINGS AND DETERMINATION	17

DEFINED TERMS

ABBREVIATION	DEFINITION
Applicant	Catholic Education Diocese of Parramatta
Application	Santa Sophia Catholic College (SSD 9772)
CELC	Catholic Early Learning Centre
Commission	Independent Planning Commission of NSW
CTMP	Construction Traffic Management Plan
Council	The Hills Shire Council
CPTED	Crime Prevention Through Environmental Design
DCP	Development Control Plan
Department	Department of Planning, Industry and Environment
Department's AR	Department's Assessment Report
Education SEPP	<i>State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017</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
GANSW	Government Architect NSW
HLEP	<i>The Hills Local Environmental Plan 2019</i>
LGA	Local Government Area
Mandatory Considerations	Relevant mandatory considerations, as provided in s 4.15(1) of the EP&A Act
Minister	Minister for Planning and Public Spaces
NVIA	Noise and Vibration Impact Assessment
Planning Proposal	Box Hill North Town Centre Planning Proposal
Project	Santa Sophia Catholic College
PWES	Pedestrian Wind Environmental Statement
Regulations	<i>Environmental Planning and Assessment Regulation 2000</i>
RtS	Response to Submissions
SEPP	State Environmental Planning Policy
SEPP SRD	<i>SEPP State and Regional Development 2011</i>
Site	No. 10 Red Gables Road (Lot 1 DP 1237552), Box Hill
SRtS	Supplementary Response to Submissions
SSD	State Significant Development
STOP Reg	<i>Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017</i>
TAIA	Traffic and Accessibility Impact Assessment

1 INTRODUCTION

1. On 5 March 2020, the NSW Independent Planning Commission (**Commission**) received from the Department of Planning, Industry and Environment (**Department**) a State significant development application (SSD 9772) from the Catholic Education Diocese of Parramatta (**Applicant**) seeking consent for the Santa Sophia Catholic College under section 4.36 of the EP&A Act (**Application**).
2. 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 SRD SEPP as in force on 5 March 2020. This is because:
 - The project constitutes State Significant Development under section 4.36 of the EP&A Act; and
 - The Department received more than 25 submissions from the public objecting to the Application
3. Mr Peter Duncan AM, Acting Chair of the Commission, nominated Dr Peter Williams (Chair), Ms Carol Austin, and Ms Wendy Lewin to constitute the Commission Panel determining the Application.

2 THE APPLICATION

2.1 Site and locality

4. The Department's Assessment Report (**Department's AR**), dated 5 March 2020, describes the Site and locality of the Application at section 1.1 pages 1-2 and existing and future surrounding developments at section 1.2 pages 2-6.
5. The Department states that the Site of the Application is:

"... located at No 10 Red Gables Road (Lot 1 DP 1237552), Box Hill within The Hills Shire local government area (LGA). The site is located within a greenfield area undergoing a transition from its current rural residential character to an urban character in the future comprising a mix of residential and commercial developments."
See Figure 1 below.
6. The main components of the Application are set out in the Department's AR at section 2.1, Table 1 at pages 9-11 and are also shown in Figures 10 to 18.
7. The Department's AR states that the Applicant:

"... seeks approval for the construction and operation of a new school (the school) comprising a four – six storey building with four components (15,090 square meters gross floor area), accommodating: learning areas; creative and performance hubs; open space and sporting facilities for 1860 Kindergarten to Year 12 (K – 12) students; and a centre-based childcare facility (Catholic Early Learning Centre) for 60 students (CELC); and 130 full-time equivalent (FTE) staff."

Figure 1 – The site in the local context (Source: Department's AR)



2.2 Need and Strategic Context

8. The Applicant's EIS, dated 17 May 2019, sets out the Applicant's position regarding the need for the Application at page ii and chapter 6 pages 36-40.
9. The Department's AR summarises the project need, justification and strategic context at sections 3.1 and 3.2 respectively on page 21.
10. On 13 November 2018, the Council considered a request to amend the Hills Local Environmental Plan 2019 (**HLEP**). The Box Hill North Town Centre Planning Proposal (**Planning Proposal**) sought consent to increase the FSR and maximum building height for the Town Centre allotments including those for the Site. The Council decided against including the school Site in the planning proposal as the Application is SSD and therefore does not need to comply with HLEP development standards (as outlined in paragraph 60).

3 THE DEPARTMENT'S CONSIDERATION OF THE APPLICATION

11. The Department received the Application in May 2019.
12. Under section 4.6(e) of the EP&A Act, the Planning Secretary (through the Department) is responsible for the Commission's functions in respect of community participation. This includes responsibility for public exhibition (and if necessary, re-exhibition) of applications. The Department's AR sets out the Department's engagement and exhibition process at section 5, pages 28-35.
13. An overview of the submissions received by the Department is provided in Table 1 below:

Table 1 – Summary of Submissions (Source: Department's AR)

Submitter	Number	Position
Government Agencies and Council	7	
<ul style="list-style-type: none"> • The Hills Shire Council • Environment, Energy and Science Group • Transport for NSW • Transport for NSW (RMS) • Heritage, Community Engagement of the Department of Premier and Cabinet • Environment Protection Authority 	<p style="text-align: center;">1 1 1 1 1 1</p>	Comment
Special Interest Groups	1	
<ul style="list-style-type: none"> • Our Lady of Angels Church 		Object
Community	74	
	69	Object
	1	Comment
	4	Support
TOTAL	82	

14. The Department's AR summarises the Applicant's Response to Submissions (**RtS**), dated 20 September 2019, at section 5.3 and 5.4, pages 34-35.
15. Section 5.5, page 35 of the Department's AR summarises the Applicant's Supplementary Response to Submissions (**SRtS**), together with four subsequent packages of further information.
16. Sections 6.1, 6.2 and 6.3 of the Department's AR identified Site suitability, traffic and transport and built form and urban design as the key impacts associated with the Application. The Department also considered other potential impacts associated with the Application at section 6.4, Table 13.

4 THE COMMISSION'S CONSIDERATION

4.1 The Commission's Meetings and Site Inspection

17. As part of its determination, the Commission met with various persons, as set out in Table 2 below. All transcripts of meetings have been made available on the Commission's website.

Table 2 – The Commission's Meetings

Meeting	Date of Meeting	Transcript/Notes available on
Department	20 March 2020	8 April 2020
Applicant	25 March 2020	21 April 2020
Public Meeting	Public meeting cancelled	N/A
Site Inspection	Site inspection cancelled – Applicant provided video narrated site tour	02 April 2020

18. The public meeting was originally scheduled for Friday 3 April 2020; however, due to the COVID-19 (Coronavirus) pandemic, that public meeting was cancelled. Individuals and groups interested in having their say on the Application were instead invited by the Commission to make written submissions, which were considered in the same manner as submissions made at a public meeting.

4.2 Public Comments

19. As of close of comments at 5:00 PM on Friday 10 April 2020, the Commission had received 51 public comments. Of the 51 written comments, 46 were in support of the Application, three were comments on the Application and two were objections. Common themes addressed were:

- The Box Hill area is rapidly growing, and additional school facilities are needed
- A child or grandchild of the commenter is already enrolled at Santa Sophia

20. The Commission notes that a majority of submissions received by the Department were objections to the Application, whereas 82% of the public comments received by the Commission were in support of the Application.

4.3 Material Considered by the Commission

21. In making its determination, the Commission has carefully considered the following material:

- the Secretary's Environmental Assessment Requirements (SEARs) issued by the Department on 21 December 2018;
- the Applicant's EIS, dated 17 May 2019 and prepared by Urbis, together with its accompanying appendices;
- all submissions made to the Department in respect of the proposed Application during the public exhibition, 30 May 2019 – 26 June 2019;
- the Applicant's RtS and associated documentation, dated 20 September 2019;
- the Applicant's SRtS, which comprised a series of documents dated 18 December 2019, 17 February 2020, 24 February 2020, 27 February 2020, 3 March 2020 and 25 March 2020;
- the Department's AR, dated 5 March 2020;
- the Department's draft Development Consent, dated 5 March 2020;
- the Department's presentation to the Commission at the Stakeholder meeting on 20 March 2020,
- the Department's response to Questions on Notice raised by the IPC, dated 25 March 2020;
- the Applicant's presentation to the Commission at the Stakeholder meeting on 25 March 2020,
- Council's response to matters raised by the IPC, dated 27 March 2020,
- The Department's response to further questions raised by the IPC, dated 8 April 2020,
- All public comments made to the Commission.

4.4 Mandatory Considerations

22. In determining this Application, the Commission has taken into consideration the following Mandatory Considerations, as provided in s 4.15(1) of the EP&A Act, as are relevant to the Application:

- the provisions of all:
 - Environmental Planning Instruments (EPIs)

- Draft instruments that are or have been the subject of public consultation under the EP&A Act and that have been notified to the Commission (unless the Secretary has notified the Commission that the making of the draft instrument has been deferred indefinitely or has not been approved);
- development control plans;
- planning agreements that have been entered into s 7.4 of the EP&A Act, and draft planning agreements that a developer has offered to enter into under s 7.4; and
- the *Environmental Planning and Assessment Regulation 2000* to the extent that they prescribe matters for the purposes of s 4.15(1) of the EP&A Act; that apply to the land to which the Application relates;
- 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 development;
- submissions made in accordance with the EP&A Act and Regulations;
- the public interest.

4.5 Environmental Planning Instruments

23. The Commission has taken into consideration the following EPIs which apply to the Site:

- State Environmental Planning Policy (State & Regional Development) 2011 (SRD SEPP);
- State Environmental Planning Policy (Infrastructure) 2007 (ISEPP);
- State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (Education SEPP);
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55);
- State Environmental Planning Policy No. 64 – Advertising Structures and Signage (SEPP 64)
- Draft State Environmental Planning Policy (Remediation of Land) (Draft Remediation SEPP);
- The Hills Local Environmental Plan 2012 (HLEP 2012)

4.6 Additional Considerations

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

- Educational Facilities Standards and Guidelines (NSW Department of Education)
- GANSW Tree Canopy Cover guidelines

4.7 Planning Agreements

25. There are no planning agreements associated with this Application.

4.8 Site Suitability

26. The Commission notes that various considerations contribute to the suitability of a site for a particular use; key considerations specific to the Application are outlined below.

27. As described in paragraph 5, the Site is located within a greenfield area currently undergoing a transition from rural residential land use to an urban character and will ultimately be part of the future Town Centre of Box Hill North. The Box Hill North Master Plan provides for future development within the Town Centre comprising a mix of commercial and high-density residential development.

Council's Consideration

28. In response to a question from the Commission as to why the Application was considered suitable for the Site when it was not part of Council's indicative Layout Plan / Precinct Plan for the North Box Hill release area, Council advised the Commission that:

"Private schools are private enterprises driven by the market. Council had not been approached by any private education provider at the time of the initial Box Hill North precinct planning work. An educational establishment was always permissible within the Town Centre under State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (SEPP)."

Applicant's Consideration

29. The Applicant's RtS states at section 3.1.2. that:

"The school provides all the required open space for its students within the school boundary. The amount of open space provided equates to approximately 7m² per student. A benchmarking exercise was undertaken by CEDP comparing the available amount of open space against that provided at other schools within the Diocese and the ways in which the available space was utilised. This found that 7m² provided more than sufficient area for students to engage in a variety of active and passive play activities."

30. A Crime Prevention through Environmental Design (**CPTED**) report was prepared on behalf of the Applicant for the EIS. It concluded that:

"The assessment has found that the proposed development incorporates CPTED principles and will improve the current site in terms of activation, surveillance and safety. The implementation of lighting, signage and management measures will further enable the proposal to adequately incorporate CPTED principles. The recommendations made in this report are considered appropriate to minimise crime related risk to the future occupation of the new school."

31. At section 5.5.1, page 26, the Applicant's EIS states that:

"In accordance with Clause 35(5) [of the Education SEPP], the proposed school civic facilities are to be available for community use as needed. However, this will not take precedent over the school's needs. It is proposed that the use of these facilities will be between 7am to 10pm, with associated pack-up, clean-up and non-intrusive maintenance activities until 11pm."

Department's Assessment

32. At section 6.1, page 36 the Department's AR states, "Approximately 78% of public submissions to the EIS, objected to the proposal on the grounds that the proposed site within the Box Hill North Town Centre is not suitable for a school."

33. Regarding the provision of open space within the school, the Department's AR concludes at page 40 that:

"through design, additional provisions (recommended by conditions of consent) and management measures, the site can provide for a reasonable level of open space for the students in a future high-density environment. The residual requirements for open space can be compensated through the use of Council's playing fields."

34. At page 40, the Department's AR concludes its analysis of student safety:

"The proposed location of the school within the Box Hill North Town Centre is not considered to be detrimental to the safety of students. The Applicant's proposed access and control measures would manage student and staff entry / exit appropriately and ensure appropriate security management for the site."

35. At section 6.1.3, the Department's AR states its support for the community use of school facilities:

"The community uses would be outside the school hours and therefore have very limited impact on the safety of the students or CELC children. However, it would ensure passive surveillance of the school outside of the school hours and activation of the pedestrian thoroughfare due to increased movements."

36. The Department's AR concludes at page 38 that "As a result of the assessment, the Department is satisfied that a suitably designed school can be established on the site, subject to recommended conditions."

Commission's Findings

37. The Commission notes the importance of a framework being developed to manage the safe use of the school facilities by both staff and students, as well as by members of the community. The Commission finds that the Department's recommended condition E21, which requires the preparation of an Operational Management Plan, including community use of school facilities achieves this. The Commission imposes this condition of consent.

38. The Commission agrees with the Department's findings in that a suitably designed school can be established on the Site, as set out in paragraphs 32-36 of this Statement of Reasons. The Commission, therefore, imposes the Department's recommended conditions of consent.

4.8.1 Traffic and Transport

Council's Consideration

39. In its submission to the Department, Council stated that limited detail was provided in relation to parking relied upon off Site. It also recommended that further measures be provided to support the pick-up / drop off area which would not be sufficient when the school reached full capacity.
40. Council initially recommended that the Application should not be determined until two development applications for roads (Red Gables Road, Fontana Drive and internal / Town Centre roads) had been determined.
41. Council later stated in its response to matters raised by the Commission that as the two development applications for roads mentioned in paragraph 40 had been approved and the roads under construction, Council's previous request for determination of the Application to be delayed is no longer applicable.

Applicant's Consideration

42. The Applicant's EIS included a Traffic and Accessibility Impact Assessment (**TAIA**), which at page 89 assesses the potential impact of the Application on the future local road network. The TAIA assessed the impact at the year of opening (2021) and at full development (respectively):

- *“The analysis indicated that the local road network would operate at LOS [Level of Service] of A indicating there is sufficient capacity to accommodate the School traffic generation at Year of Opening.”*
 - *“The modelling undertaken for that assessment [full development] demonstrated the surrounding road network would accommodate the precinct traffic generation within the local road network.”*
43. The Applicant’s EIS states that a car parking analysis performed for the TAIA found that the school would generate the need for 110 staff car parking spaces. An agreement between the Applicant and the Town Centre management has been made to provide and reserve spaces for the use of the school within the Town Centre (a copy of the deed of agreement formed part of the Applicant’s SRtS). Until the construction of these car parking spaces, an interim strategy will provide spaces in an adjacent lot to the school.
44. Section 7.3.6 of the Applicant’s EIS states that 10 pick-up / drop-off spaces will be provided for the CELC and 12 spaces along the northern frontage on Road B. Regarding the requirements of full capacity, the EIS states:
- “...the pick-up/drop-off demand is between 181-241 [sic] spaces. This demand exceeds the 12-space capacity. On-going monitoring is recommended to determine and inform appropriate strategies to reduce the demand. These strategies could include the reliance on on-street parking spaces or staggering of starting and finishing times between Primary and Secondary School components.”*
45. The Applicant’s RtS acknowledged that the demand for pick up / drop off will exceed the capacity. As a result, the Applicant confirmed that an additional 20 spaces along Fontana Drive will be provided for pick-up and drop-off of secondary school students.
46. The Applicant’s EIS details a Green Travel Plan for the school at section 12.1, stating:
- “The GTP proposes new targets for the mode share, which will be achieved through Travel Plan measures. Table 25 details the person trips by mode, based on the proposed mode share targets identified as part of this assessment. It should be noted these are goals which are set to be achieved through the promotion of alternate modes and take into consideration the primary location of the Site with [sic] respect public transport.”*
47. The Applicant’s TAIA summarises a Construction Traffic Management Plan (**CTMP**) which will monitor and review the potential impacts of construction related traffic. The TAIA states:
- “The CTMP has been based on the future site conditions and information provided by the Builder. Consultation with Council and the Builder will continue to be undertaken to ensure that the cumulative traffic impacts of construction within the area does not adversely impact the road network. The CTMP will be reviewed and monitored frequently to confirm that the construction traffic methodologies reflect the current traffic situation in the Site’s locality.”*

Department’s Assessment

48. The Department’s AR notes the temporary intersection operations of Red Gables Road and Fontana Drive as well as the Application’s potential impact on the intersection of Terry Road / Old Pitt Town Road and is satisfied with the proposed arrangements. The Department’s AR concludes that: *“Given the above, the Department is satisfied that the impacts of the proposed development on the surrounding road network are acceptable.”*

49. At pages 48-49 of the Department's AR, the Department finds that the concerns raised in relation to the proposed car parking spaces and future off-site parking arrangements have been adequately addressed. On the basis of the Department's recommended conditions of consent, capping the total number of students and staff at the school as proposed by the EIS, the Department's AR stated that it is *"therefore satisfied that the provision of 110 car parking spaces would satisfactorily meet the demand generated by the development."*
50. Regarding the proposed drop-off / pick-up zones, the Department's AR notes the capacity of the proposed zones and is satisfied with the proposed use of overflow zones and additional 20 spaces provided along Fontana Drive for secondary school students. On the basis of the Department's recommended conditions of consent relating to drop-off / pick up zones, the Department's AR states that the drop-off / pick-up zones would be *"able to accommodate the projected demand, both at the commencement of school operations and once it reaches full capacity."*
51. At page 53 of the Department's AR, the Department assesses event and community use parking relating to the Site, finding that such events could be reliably accommodated and recommended a condition requiring the Applicant to prepare an out-of-hours Event Management Plan. As such, the Department's AR states, *"it is considered that appropriate management measures are required to be developed to help minimise potential off-site impacts on the surrounding community."*
52. At page 56 of the Department's AR, the Department recommended a condition of consent relating to the Green Travel Plan and concluded that:
- *"The Department supports the modal split target for bus journeys and notes that the relevant arrangements are in the process of being implemented to ensure that such services can be accommodated."*
 - *"The Department also supports the combined 23% (328 students) modal share for pedestrian and cyclist movements to encourage more sustainable school journeys and reduce private vehicle usage in the long term."*
53. The Department's AR assesses the matter of construction traffic and concludes:
- "The Department is satisfied that through the implementation of a final CTMP and engagement of traffic controllers would manage construction traffic generated by the proposal to a satisfactory level to no adverse off-site impacts are generated. The Department has recommended conditions of consent to ensure this occurs."*

Commission's Findings

54. The Commission acknowledges Council's recommendations for further measures to be put in place for pick-up and drop-off spaces. The Commission also notes that the Applicant's RtS has since confirmed the provision of an additional 20 spaces along Fontana Drive. The Commission, therefore, agrees with the Department's Assessment in paragraph 50.
55. The Commission notes the importance of the development of a framework to manage the safe use of areas outside of the school's boundary by staff and students. The Commission finds that the Department's recommended condition E23, which requires the preparation of an Operational Transport and Access Management Plan achieves this. The Commission imposes this recommended condition of consent.

56. The Commission acknowledges the interim and final staff and student car parking strategies proposed by the Applicant. The Commission agrees with the Department that although the car parking arrangement will meet the needs of the school, the student and staff numbers should be capped at the level proposed by the EIS to control demand. The Commission, therefore, imposes the Department's recommended condition of consent for this matter.
57. The Commission agrees with the Department's assessment of Traffic and Transport issues. The Commission imposes the conditions recommended by the Department, as well as the condition outlined in paragraphs 37 & 95.

4.9 Built Form and Urban Design

Council's Consideration

58. In its submission to the Department, Council noted that the Application seemed to justify the exceedance of the HLEP building height development standard by relying on the proposed heights of the surrounding development lots included in the Planning Proposal. Council did not originally view the amendment to the HLEP sought by the Planning Proposal as imminent or certain and therefore found the justification deficient.
59. In its response to matters raised by the Commission, Council stated that although it originally had a concern with the FSR and height exceedances on the Site in relation to adjoining land, the finalisation of the Town Centre Planning Proposal for the adjoining land now provides for height and FSR levels greater than those proposed for the Site.

Applicant's Consideration

60. The Applicant's RtS refers to clause 42 of the Education SEPP which provides that:

"Development consent may be granted for development for the purpose of a school that is State Significant Development even though the development would contravene a development standard imposed by this or any other environmental planning instrument under which the consent is granted."

61. Although the Applicant has provided justification for the proposed height and FSR exceedances of the Application, Appendix E of the RtS (at page 13) relies on clause 42 of the Education SEPP to demonstrate why compliance with those development standards is not required.
62. Section 4.3, page 16 of the Applicant's EIS lists the proposed facilities forming part of the Application and what use they would have in the future school. Regarding the built form, the Applicant's EIS states that the built and urban design of the Application has been developed to complement and minimise the potential impacts to surrounding developments within the Town Centre.
63. At section 3.1.2 of the Applicant's RtS, the Applicant details its approach to the design and use of open spaces. In particular, covered walkways and decks on level 5 and the roof surrounding the fitness centre on level 4 were developed to support both recreational and educational uses for students and achieve acceptable levels of solar access into these spaces. This dual use of space is a key aspect of the design which the Applicant's RtS states is suitable for both uses by being designed to be "...sheltered but also receive sunlight and breezes."

64. The Applicant lodged a supplementary RtS (**SRtS**) responding to the Department's recommendations to remove the roof or provide a retractable roof over the play spaces on Levels 4 and 5. The Applicant's SRtS quotes the Diocese's guidelines regarding the dual use of recreation and education:

"Shading devices to outdoor spaces will encourage opportunities for outdoor learning and play, particularly during the warmer months. These can include natural and built shade. Adequate protection from 'the elements', avoids poor weather conditions preventing use (wind, heat, rain)."

65. At pages 32-33, the Applicant's EIS states that the proposed architectural design has considered the potential amenity impacts on the future developments to the south and east of the Site. The Applicant's EIS states that:

"As the design of the neighbouring building to the south is yet to be finalised, there is also an opportunity for the future design to respond to these conditions, for example by locating the living areas of this building away from the southern façade."

66. A Pedestrian Wind Environmental Statement (**PWES**) dated 10 May 2019 was prepared by Windtech on behalf of the Applicant. The Applicant's EIS summarises the results of this assessment:

"The results of the wind assessment indicate that the proposal is exposed to the three prevailing wind directions (north-easterly, southerly and westerly winds). As a result, there is a possible impact on the wind comfort within certain areas such as the pedestrian footpaths, the Plaza, the elevated Open Play Spaces and Level 04 of Building North. Windtech has made several recommendations for design mitigations measures. The exact size and extent of the treatment strategies will be refined following wind tunnel testing and optimised at the detailed design stage."

67. The Applicant's RtS justified the proposed tree canopy of 14% within the Site, stating that the location in the Town Centre and proposed built form of the Project limited the scope to further increase the tree canopy in the Site. However, the Applicant's RtS added that this would be offset by the tree canopy provided across the wider Box Hill North Precinct.

Department's Assessment

68. The Department's AR notes the exceedances of both the maximum building height control and FSR control that the Project would produce; however, acknowledges that clause 42 of the Education SEPP means that the relevant development standards of the HLEP do not apply. The Department's AR still assesses the justification provided by the Applicant for the departure from height and FSR controls.
69. The Department's AR considers the justification provided by the Applicant for the height and FSR exceedances with its assessment of the proposed design and bulk of the Project. The Department's AR states *"...that compliance with the height / FSR controls is unreasonable and unnecessary and there is sufficient planning justification to contravene the standards"*
70. The Department's AR also states that the Department is satisfied that *"the proposed buildings would comply the objective of clause 4.3 "Height of Buildings" in the THLEP 2012, as: the development is compatible with its adjoining properties; maximise solar access and privacy of neighbours and open spaces."*
71. Based on the above assessment, the Department's AR concludes that *"...the exceedances of the maximum building height / FSR controls are acceptable."*

72. Regarding the siting and built form of the Project, Section 6.3.1 of the Department's AR finds that the design of the proposed development "...has been appropriately designed to be consistent with the planned Town Centre future-built form context."
73. The Department's AR has considered the potential amenity impacts of the Project on future residential developments. The Department's AR states:
- "The school would be in a high-density precinct, close to residential developments, and there would be some impact on the solar access and privacy of the future residents. However, the shadow diagrams and the site plan demonstrate that the school has been designed to maintain visual privacy and solar access to majority of the future residents, where possible."*
74. The Department's AR details the assessment of the functionality and quality of open space by GANSW. GANSW advises that sections of the upper level walkway decks would realistically function more like circulation spaces and produce poor recreation space due to lack of solar access and poor amenity. In response to GANSW's recommendation to remove the roof over the play spaces on Levels 4 & 5, and as a result of the Department's own assessment which found the Applicant's design to rely overly on covered walkways being used as recreational spaces, the Department's AR recommended a condition requiring:
- "...the removal of the roof [or provision of retractable / openable roof] surrounding the fitness centre on Level 4 (Building North) and the roof to the walkway decks on Level 5 (identified in **Figure 39**). The Department acknowledges that a 1m – 2m wide covered walkway may be needed to maintain weatherproof access between the Knowledge Centre lifts and the learning areas. Amended open space plans with covered walkway provisions are required to be provided to the Planning Secretary for approval prior to the release of the construction certificate."*
75. The Department's AR finds that having regard to its recommended design amendment condition (as outlined in paragraph 74), the appropriate level of functionality, quality and solar access to open spaces would be achieved.
76. Regarding the CELC, the Department's AR reviews the associated design and states that it is: "...satisfied that the childcare centre includes appropriate amenities and play space for children, while being visually integrated with the school design."
77. In its response to questions from the Commission, dated 8 April 2020, the Department agreed with the Applicant's justification of a proposed tree canopy of 14%. The Department went on to state that:
- "Additional deep soil areas would be needed within the site to allow for the growth of canopy trees on the site. The increase in deep soil areas would potentially result in loss of educational and play spaces currently located throughout the ground level of the site. The Department does not consider that this would be a favourable outcome for the site, considering the need for the facility at that location."*

Commission's Findings

78. The Commission notes that when the EIS was drafted the design for the residential development to the south was not finalised although the Applicant had considered the potential amenity impacts on the southern development as described in paragraph 65. As that residential development is occurring at a considerable distance from existing developments and design coordination with other, more proximate developments has been demonstrated, the Commission agrees with the Department's Assessment at paragraph 73.

79. The Commission notes that pursuant to clause 42 of the Education SEPP, the development standards of the HLEP do not apply. The Commission agrees with the Department's conclusion that compliance with the height and FSR controls is unnecessary and unreasonable in this instance (as stated in paragraph 69).
80. Regarding the roof surrounding the fitness centre on Level 4 (Building North) and the roof to the walkway decks on Level 5, the Commission acknowledges the Department's assessment of the need for solar access on these top levels and its recommended condition to remove the roof or install a retractable roof. The Commission accepts the Applicant's reasoning for why a non-retractable, permanent roof is required to support the dual educational and recreational uses assigned to these spaces. In addition, the Commission notes that acceptable solar access would be achieved within these spaces and elsewhere within the school if permanent roofs are retained.
81. The Commission finds that there can be practical issues associated with retractable roof designs including wind impact, rainwater leakage, as well as temperature and functional impacts. In addition, the lack of a permanent roof would likely restrict the potential educational uses of the space, and a retractable roof is likely to remain closed. For these reasons, the Commission has decided not to impose the Department's recommended condition of consent set out in paragraphs 74-75.
82. In relation to tree canopy cover, the Commission acknowledges the Applicant's justification of why 14% canopy cover was the maximum proposed to be achieved due to the operational and physical constraints of the Site. The Commission acknowledges the examples of tree canopy cover at comparable schools as provided in the Applicant's public comment, received 8 April 2020. The Commission notes that 14% canopy cover is at the low end of these comparisons.
83. The Commission notes that the constraints of tree canopy cover are a result of a lack of prioritisation of educational and playground use in the context of Site constraints and finds that, as a best practice principle, greater tree canopy cover is desirable.
84. The Commission has considered both the Applicant's PWES dated 10 May 2019 and an addendum to the PWES made available to the Commission during its determination process on 25 March 2020. Both included recommendations to minimise wind impact. The Commission is satisfied that subject to conditions of consent B10 and B11 which require any design amendments required as a result of recommendations of detailed wind tunnel testing to be implemented to the satisfaction of the Planning Secretary, wind impacts can be suitably mitigated.

4.10 Safety

Applicant's Consideration

85. As stated in paragraph 30, the Applicant provided a CPTED report which assessed the proposed safety and security measures for students and staff within and near the Application. The assessment found that *"the proposed development incorporates CPTED principles and will improve the current site in terms of activation, surveillance and safety."*
86. A BCA report was prepared for the Applicant by BCA Logic. It addressed the access and egress requirements for the Application. With minor design amendments, the Applicant's EIS states that the Application complies with the BCA 2016.
87. In response to a public submission regarding evacuation space, the Applicant's RtS responded:

“The Gables masterplan includes approximately 80 hectares of open space. This includes a lake and several parks. These areas will be accessible from the school via walking and cycling paths. There is sufficient open space available surrounding the school site to allow for emergency evacuation.”

Department’s Assessment

88. The Department’s AR lists student safety as the second most raised issue by the public during its exhibition period, appearing in 48.6% of submissions. Many of these issues are related to the proximity of the school to the Town Centre, however other identified safety issues including potential student behaviour near upper level balconies and whether the school design was conducive to effective evacuations were raised.
89. The Department’s AR acknowledges the Applicant’s CPTED which assesses the issue of student safety regarding the Application’s proximity to the Town Centre. The Department was satisfied with the Applicant’s consideration of this issue as stated in paragraph 34.
90. The Department’s AR acknowledges the recommendations made in the Access Report and Building Code of Australia Assessment Report submitted as part of the EIS. The Department’s AR is satisfied with the Applicant’s adoption of those recommendations to achieve suitable circulation and access control during operation and in the case of an emergency.
91. Regarding the exposure of students to balcony and rooftop edges, the Department’s AR states at section 6.1.2, page 40 that *“A double storey wire mesh screen is proposed to ensure safety of the users of the rooftop multipurpose court”*.
92. Public submissions to the EIS also raised safety issues associated with the increased traffic in the Town Centre caused by the Project and some requested that the Terry Road and Old Pitt Town Road intersection be signalised. Regarding this matter, the Department’s AR concludes that:

“...the school development in itself would not impact on the intersection of Terry Road / Old Pitt Town Road, located at a considerable distance to the south.”
93. At section 6.1.2, page 43 of the Department’s AR, the Department acknowledges the Applicant’s proposed arrangement for connecting the use of the playing fields with the school via a pedestrian crossing. The Department has recommended a condition requiring the preparation of an Operational Management Plan. On this basis, the Department is satisfied with Applicant’s proposed arrangement.
94. The Department’s AR concludes at section 6.5, page 86 that:

“The Department is satisfied that student safety has been appropriately catered for in the proposed design and layout of the school. The design of the school encompasses CPTED principles to ensure that the school site remains secure and safe during school operations and that its edges remain maintained and well looked after to develop a sense of place and activity management.”

Commission's Findings

95. The Commission finds that due to the nature of a vertical school, student exposure to railings and balustrades is an unavoidable aspect of operation. The Commission acknowledges that the Applicant has exceeded minimum BCA compliance in some aspects of the built form. The Applicant has confirmed in its 8 April 2020 submission to the Commission that an Operational Management Plan will be implemented to ensure that all play and circulation spaces on the upper levels are strictly managed to ensure student safety.
96. The Commission agrees with the Department's assessment of issues related to safety in that the design of the built form and management of the school together with the Department's recommended conditions of consent will foster a safe school environment. The Commission imposes these conditions of consent.

4.11 Other Issues

Noise and Vibration

97. The Department's AR assessed the Applicant's Noise and Vibration Impact Assessment (NVIA) and revised NVIA and the Department considers that no significant impact on the locality would occur from noise generated by construction works or operation if the recommendations of the revised NVIA are implemented. The Department recommended conditions of consent, including the implementation of an Operational Management Plan, to minimise potential noise and vibration impacts.
98. The Commission agrees with the Department's assessment of the potential noise and vibrations impacts associated with the Application and imposes the Department's recommended conditions of consent.

Contamination

99. The Department's AR states that with its recommended condition of consent, it is satisfied that *"the Applicant has adequately addressed clause 7 of SEPP 55 and that the site is suitable for its proposed use as a school and childcare centre without the need for any further remediation."*
100. The Commission agrees with the Department's assessment related to contamination and imposes the Department's recommended conditions of consent.

Aboriginal Heritage

101. The Applicant's EIS was accompanied by an Aboriginal cultural heritage report which was the Aboriginal archaeological and cultural heritage assessment conducted for the Box Hill North development. An Aboriginal Heritage Impact Permit was sought and obtained for the Box Hill North development as identified sites would likely be impacted. No impacts would occur on the Site of the Project, however.
102. The Department's AR supports the Applicant's assessment in that any impacts on the Site would be unlikely. The Department's AR recommended a condition requiring an unexpected finds protocol to be prepared in relation to Aboriginal cultural heritage management.
103. The Commission agrees with the assessment of the Department and its recommendation of a condition relating to the preparation of an unexpected finds protocol. The Commission imposes the Department's recommended condition of consent.

4.12 Objects of the EP&A Act & Public Interest

Applicant's Consideration

104. The Applicant's EIS states in its assessment on page iii that the proposal is in the public interest because it will create temporary and ongoing jobs as well as taking *"substantial pressure off existing schools in the surrounding locality and ensures more children have access to high quality school facilities, learning spaces and equipment"*.
105. In its conclusion on page 53, the Applicant's EIS cited other reasons for the school being in the public interest including:
 - The quality of its services
 - Minimal impact on surrounding environment
 - Positive overall contribution to local community

Department's Assessment

106. The Department's AR has undertaken an assessment of the Application against the objects of the EP&A Act. These are set out in the Department's AR – Table 4 at pages 23-25.
107. At pages 88 & 89, the Department's AR states: *"The proposal is in the public interest and would provide a range of public benefits, including:*
 - *Provision of a new school infrastructure in an expanding growth precinct for all school year groups;*
 - *A 1920 increase in student enrolment capacity in the Central City District (1860 for the school and 60 for the CELC).*
 - *2000 new construction jobs and capacity FTE staff."*

Commission's Findings:

108. The Commission agrees with the Department's Assessment in paragraphs 106-107 and is of the view that the Project is in accordance with the objects of the EP&A Act. Furthermore, the provision of additional school infrastructure facilities in this growth area is in the broader public interest.
109. The Commission acknowledges the positive outcomes of locating a school in the emerging Town Centre of Box Hill North, including the efficient use of transport and service infrastructure, providing an activated and vibrant "hub" for the community and meeting demand for educational facilities in the growth area. However, the Commission is of the view that there have been a number of missed opportunities associated with this project which potentially could have been avoided and should not be replicated in other greenfield developments. These include siting / orientation and solar access, tree canopy cover and direct / boundary adjacencies to larger areas of recreational open space.

5 CONCLUSION: THE COMMISSION'S FINDINGS AND DETERMINATION

110. The views of the community were expressed through public submissions and written comments (received as part of exhibition and as part of the Commission's determination process) as outlined in paragraphs 12, 13, 19 & 20. The Commission carefully considered all of these views as part of making its decision. The way in which these concerns were taken into account by the Commission is set out in **section 4** above.
111. The Commission has carefully considered the material before it.
112. For the reasons set out in this Statement of Reasons, the Commission has determined that the Application should be granted consent subject to conditions which have been designed to:
- Prevent, minimise and/or offset adverse environmental impacts;
 - Set standards and performance measures for acceptable environmental performance;
 - Require regular monitoring; and
 - Provide for the on-going environmental management of the development.
113. The reasons for the Decision are given in this Statement of Reasons for Decision dated 21 April 2020.



Dr. Peter Williams (Chair)
Member of the Commission



Carol Austin
Member of the Commission



Wendy Lewin
Member of the Commission