



New South Wales Government  
Independent Planning Commission

# **Saints Peter and Paul Assyrian Primary School SSD 9210**

## **Statement of Reasons for Decision**

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Adrian Pilton

26 February 2021

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State of New South Wales through the Independent Planning Commission 2021

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## DEFINED TERMS

ABBREVIATION	DEFINITION
<b>Applicant</b>	Assyrian Schools Limited
<b>Application</b>	Saints Peter and Paul Assyrian Primary School SSD 9210
<b>Commission</b>	Independent Planning Commission of NSW
<b>Council</b>	Fairfield City Council
<b>Department</b>	Department of Planning, Industry and Environment
<b>Department's AR</b>	Department's Assessment Report dated January 2021
<b>EIS</b>	Environmental Impact Statement
<b>EP&amp;A Act</b>	<i>Environmental Planning and Assessment Act 1979</i>
<b>EPI</b>	Environmental Planning Instrument
<b>ESD</b>	Ecologically Sustainable Development
<b>FLEP 2013</b>	Fairfield Local Environmental Plan 2013
<b>GFA</b>	Gross Floor Area
<b>LEP</b>	Local Environmental Plan
<b>LGA</b>	Local Government Area
<b>Relevant Considerations</b>	Relevant mandatory considerations, as provided in s 4.15(1) of the EP&A Act
<b>Material</b>	The material set out in section 4.4
<b>Minister</b>	Minister for Planning and Public Spaces
<b>Project</b>	Construction and operation of a new primary school for up to 630 students and 35 staff members at Cecil Hills, NSW
<b>Regulations</b>	<i>Environmental Planning and Assessment Regulations 2000</i>
<b>RTS</b>	Response to Submissions
<b>SEPP</b>	State Environmental Planning Policy
<b>SRD SEPP</b>	<i>State Environmental Planning Policy (State and Regional Development) 2011</i>
<b>Site</b>	17–19 Kosovich Place, Cecil Park, NSW (Lot 2320 and Lot 2321 in DP 1223137)
<b>SRD SEPP</b>	<i>State Environmental Planning Policy (State and Regional Development) 2011</i>
<b>SSD</b>	State Significant Development

## 1 INTRODUCTION

1. On 22 January 2021, the NSW Department of Planning, Industry and Environment (**Department**) referred a State significant development application (SSD 9210) (**Application**) from Assyrian School Limited (**Applicant**) to the NSW Independent Planning Commission (**Commission**) for determination. The Application seeks approval for the construction and operation of a new primary school for up to 630 students and 35 staff members at Cecil Hills, NSW (the **Project**) in the Fairfield Local Government Area (**LGA**) under section 4.36 of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**).
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 *State Environmental Planning Policy (State and Regional Development) 2011* (**SEPP SRD**). This is because:
  - the Application constitutes State significant development under section 4.36 of the EP&A Act as the Application is for a new school under clause 15(1) of Schedule 1 of the *State Environmental Planning Policy (State and Regional Development) 2011* (**SRD SEPP**); and
  - the Department received an objection from the local council, namely Fairfield City Council (**Council**).
3. 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

4. The site is located at 17–19 Kosovich Place, Cecil Hills, NSW (Lot 2320 and Lot 2321 in DP 1223137) (**Site**).
5. Paragraph 1.1.4 of the Department’s Assessment Report (**AR**) states that the Site is located “*approximately 10 kilometres (km) west of Fairfield Central Business District (CBD), approximately 16km south west of Parramatta CBD, and approximately 10km north west of Liverpool CBD. The Western Sydney Aerotropolis is located approximately 7km west [of] the site*”.
6. Paragraph 1.2.2 of the AR states: “*the site is surrounded by rural residential properties... comprising grassed land, dwelling houses, detached farm buildings and farm dams*”. The Westlink M7 Motorway is located to the east of the Site.
7. Paragraph 1.1.5 of the AR states that the Site was previously used as a market garden and is “*currently a vacant pasture with frontage to and access off the cul-de-sac end of Kosovich Place to an informal car park which appears to service the nearby church*”.
8. The Site has an area of approximately 29,350 square meters and generally slopes from east to west with a significant fall of about 10 metres across the centre of the Site. The western part of the Site comprises low-lying flat land (AR paragraph 1.1.7). An unnamed tributary of Ropes Creek flows along the western boundary of the Site (AR paragraph 1.1.8) and is currently lined by vegetation.
9. Paragraph 1.1.6 of the AR notes that the Site is not currently serviced by essential utilities, including electricity, water or sewer mains.
10. The location of the Site is illustrated in Figure 1 below.



Figure 1 – Current site context (Source: AR Figure 2)



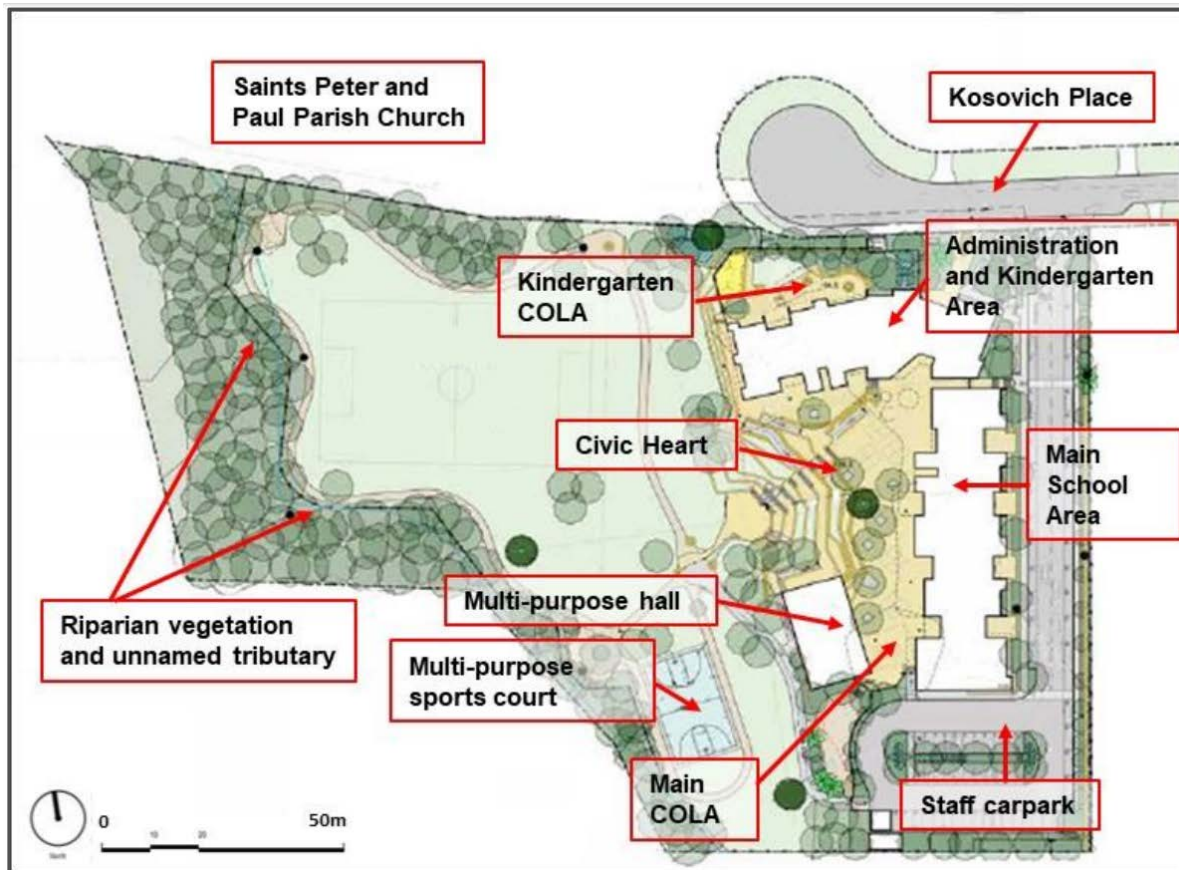
## 2.2 The Project

11. The Department's AR describes the Application at paragraph 1.1.2:

*The proposal seeks approval for the staged construction and operation of a new primary school for up to 630 students (Kindergarten (K) – Year 6) and 35 staff members in six stages. Associated works include site remediation, earthworks, drainage and flood management works, car parking, access, onsite sewerage management, riparian zone works, and landscaping. The proposal also involves widening of Kosovich Place, construction of a bus zone, and infrastructure works at the nearby Kosovich Place/ Wallgrove Road intersection.*

12. The main components of the Project are set out at Table 1 of the AR, which is attached at **Appendix A** of this Statement of Reasons.
13. Table 1 of the AR provides that the significant built form elements of the Project include the construction of three new buildings with a total Gross Floor Area (GFA) of 4,990 square metres, comprising:
- a school building – two storey building accommodating 21 general learning areas, administration and staff areas, covered play areas and amenities (4,025 square metres);
  - a multi-purpose hall – two storey building including amenities, storeroom and an attached covered outdoor learning area (COLA) (625 square metres); and
  - a library and canteen building – single storey building (340 square metres).
14. The Site masterplan is illustrated in Figure 2 below and described further at section 2.3 of the Department's AR.

Figure 2 – Site masterplan (Source: AR Figure 13)



15. Section 2.2 of the AR describes the proposed staging of construction works, operation and timing of the Project, as summarised below:
  - Stage 1: remediation works, bulk earthworks, construction of driveway and car parking, road upgrades, installation of utility infrastructure and partial construction of the main school building (AR paragraph 2.2.2);
  - Stage 2: expansion of the school building, construction of one COLA and landscaping works;
  - Stage 3: expansion of the school building, construction of one COLA and outdoor learning courtyards, and landscaping works;
  - Stage 4: construction of the library building;
  - Stage 5: construction of the multi-purpose hall and landscaping works; and
  - Stage 6: completion of the landscape master plan (AR paragraph 2.2.8).
16. Paragraph 2.2.7 of the AR notes that “*the Applicant advised that Stage 1 would likely be completed in 11 months. The remaining five stages would likely be completed in a total of 16 months*”.
17. Paragraph 2.4.1 of the AR states that at the completion of the development the Site would be used as a primary school (Kindergarten to Year 6) with 630 students and 35 full time equivalent (FTE) staff.

## 3 COMMUNITY PARTICIPATION & PUBLIC SUBMISSIONS

### 3.1 Site Inspection

18. On 9 February 2021, the Commission conducted an inspection of the Project Site, along with the Applicant, Project architect and town planner.
19. Given the limited number of submissions received from members of the public and given that no community groups objected to the Application, the Commission did not invite representatives from community groups or members of the public to observe at the Site inspection.

### 3.2 Public Submissions

20. 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 Friday 19 February 2021.
21. The Commission received one (1) submission from a member of the public, and one (1) submission from the Applicant.

#### 3.2.1 Key Issues Raised

##### *Site Suitability*

22. The written submission received by the Commission from a member of the community raised concern about site suitability, stating:

*...only 725 people live in the suburb of Cecil Park with an average age of 40 to 59 years old. The information portrays that the area of Cecil Park is an older age group. This would indicate that there are not many primary aged school children that reside in this area. In turn, this would mean that almost all of the students that would be attending the proposed school in Kosovich Close would not even be residents that live in this area and would be from out of the area rather than from the local suburbs.*

##### *Public transport*

23. The written submission received by the Commission from a member of the community raised concern about access to public transport from the Site, stating:

*The closest bus stop is 2.5 kilometres away on an 80 kilometre road with no footpaths for safe pedestrian usage.*

*There is no public transport to service the area which will have an impact on the traffic entering and exiting the Kosovich Close, a small cul-de-sac street. In allowing for 300 vehicles to enter and exit the street, this will cause significant delays and frustration for residents entering and exiting their own properties where they reside.*

##### *Traffic*

24. The written submission received by the Commission from a member of the community raised traffic concerns, stating:

*With 300 vehicles entering and exiting Kosovich Close, this will also have an impact on the traffic along Wallgrove road which is a very busy roadway at any time of the day. There is only enough room for three cars turning south bound which is also in close proximity to a single lane round about, on an 80 kilometre road.*

##### *Other Issues*

25. The written submission received by the Commission from a member of the community also noted concern regarding overflow parking, stormwater impacts, lack of sewer infrastructure, pedestrian safety, noise, land use conflict and amenity impacts.



## 4 THE COMMISSION'S CONSIDERATION

### 4.1 The Department's Assessment Report

26. Under section 4.6 of the EP&A Act, certain functions of the Commission are to be exercised by the Planning Secretary on behalf of the Commission, including "undertaking assessments of the proposed development and providing them to the Commission (but without limiting the assessments that the Commission may undertake)". The Planning Secretary's assessment of the Project is set out in the Department's AR.
27. Accordingly, the Commission considers that it is permitted to take into account the Department's AR, but that it should be weighed in the same manner as the other Material referred to below in section 4.4 of this Statement of Reasons. To the extent that any policy outside of the EP&A Act purports to require the Commission to give the Department's AR greater weight than the other Material, the Commission has not applied that policy.

### 4.2 Council's Submission

28. The Commission notes that Council's submission to the Department dated 5 December 2018 objected to the Application. Council's key concerns related to the proposed scale of development, impacts on traffic safety and parking impacts in Kosovich Place and Wallgrove Road, environmental management and detrimental impacts on the amenity of adjoining properties.
29. The Commission notes Council has indicated its willingness to work with the Applicant and the Department to address the issues identified in its submission.

### 4.3 The Commission's Meetings

30. As part of its proposal determination, the Commission met with various persons as set out in Table 1. All meeting transcripts and site inspection notes were made available on the Commission's website.

Table 1 – Commission's Meetings

Meeting	Date of Meeting	Transcript/Notes Available on
Department	12 February 2021	17 February 2021
Council	12 February 2021	17 February 2021
Applicant	12 February 2021	17 February 2021
Site Inspection	9 February 2021	22 February 2021

### 4.4 Material Considered by the Commission

31. In this determination, the Commission has carefully considered material (**material**) including:
- the Applicant's Environmental Impact Statement (**EIS**), dated 22 October 2018, and its accompanying appendices;
  - all submissions made to the Department in respect of the proposed Application during the public exhibition period, 8 November 2018 to 5 December 2018;
  - the Applicant's Response to Submissions Report (**RTS**), dated 26 April 2019, and its accompanying appendices;

- the Applicant’s Response to Additional Information Request, dated 10 February 2020, and its accompanying appendices;
- the Applicant’s response to the Department’s request for further information, dated 19 July 2019;
- the Applicant’s response to the Department’s request for further information, dated 23 August 2019;
- the Applicant’s Supplementary Response to Submissions (**SRTS**), dated 10 February 2020;
- the Applicant’s response to the Department’s request for further information, dated 3 April 2020;
- the peer review report prepared by Bitzios Consulting, dated June 2020;
- the Applicant’s further SRTS dated 13 November 2020;
- the Department’s AR, dated January 2021;
- the Department’s draft recommended Development Consent conditions, dated 2021;
- transcripts of the meetings identified in Table 1 and any presentation material;
- all written comments received by the Commission up until 19 February 2021; and
- matters for consideration specified by the EP&A Act.

## 4.5 Statutory Context

### 4.5.1 Permissibility

32. As noted in paragraph 2, the Application is identified as SSD as it is development for the purpose of a new school under clause 15(1) of Schedule 1 of the SRD SEPP.
33. The Site is located on land zoned RU4 (Primary Production and Small Lots) under the *Fairfield Local Environmental Plan 2013 (FLEP 2013)*. The Commission notes that ‘Educational establishments’ are permissible with consent within the RU4 zone.
34. Paragraphs 4.2.1 and 4.2.2 of the Department’s AR state that “*the western boundary of the site is zoned as E2 (Environmental Conservation) under the FLEP 2013. Educational establishments are not permissible with consent within the zone. [However] the proposed built form of the development is located wholly within the RU4 zone*”. The Commission is therefore of the view that the Project is permissible with consent.

### 4.5.2 Integrated and Other Approvals

35. As per section 4.3 of the Department’s AR, the Commission notes the Department has consulted with the relevant public authorities responsible for integrated and other approvals. The Commission acknowledges that the Applicant may also require other approvals which are not integrated into the SSD process.

## 4.6 Mandatory Considerations

36. In determining this application, the Commission is required by section 4.15(1) of the EP&A Act to take into consideration such of the following matters as are of relevance to the development the subject of the Application (**mandatory considerations**):
  - the provisions of:
    - any environmental planning instrument;
    - any proposed instrument that is or has been the subject of public consultation under the EP&A Act and that has been notified to the Commission (unless the Planning Secretary has notified the Commission that the making of the proposed

instrument has been deferred indefinitely or has not been approved);

- any development control plan;
- any planning agreement that has been entered into under s 7.4 of the EP&A Act, and any draft planning agreement that a developer has offered to enter into under s 7.4;
- the *Environmental Planning and Assessment Regulations 2000* (**Regulations**) 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 the development;
- submissions made in accordance with the EP&A Act and Regulations; and
- the public interest.

In accordance with s 4.15(1), the Commission has considered the mandatory considerations. They are addressed in the following sections.

37. The mandatory considerations are not an exhaustive statement of the matters the Commission is permitted to consider in determining the Project. 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.

#### 4.6.1 Relevant Environmental Planning Instruments

38. Per Appendix F.3 of the Department's AR, relevant EPI's include:

- SRD SEPP;
- *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**);
- *Draft State Environmental Planning Policy (Environment)* (**Draft Environment SEPP**);
- *Draft Cumberland Plain Conservation Plan 2020*; and
- FLEP 2013.

39. The Commission agrees with the Department's assessment of relevant Environmental Planning Instruments (EPIs) set out in Appendix B of the Department's AR. The Commission therefore adopts the Department's assessment.

#### 4.6.2 The Likely Impacts of the Development

40. The likely impacts of the Project have been considered in section 4.8 below.

### 4.6.3 The Suitability of the Site for Development

41. The Commission has considered the suitability of the Site. The Commission finds that the Site is suitable for the purpose of a new school for the following reasons:
- the Site is on land zoned RU4 and the Project is permissible with consent under FLEP 2013 and the SRD SEPP;
  - the Site is in an area of projected population growth and increasing demand for primary school places (AR paragraph 3.1.1);
  - the Site is within 6 km of St Hurmizd Assyrian Primary School at Greenfield Park, and is proposed to cater to overflow enrolments (AR paragraph 3.1.3);
  - the Site is in an accessible location and has direct access to the road network, including the Westlink M7 Motorway;
  - adverse impacts of the Project on surrounding receivers have been considered in the layout and design of the school and would be further managed and mitigated by the imposed conditions of consent;
  - environmental impacts have been avoided and mitigated where possible and residual impacts would be managed and mitigated by the imposed conditions of consent;
  - the Project is consistent with relevant strategic plans, including the NSW State Priorities and the Western City District Plan (2018), to provide new and improved teaching and education facilities;
  - the development of the Site for the purpose of a new school is an orderly and economic use and development of land; and
  - the development of the of the Site for the purpose of a new school will allow the anticipated social and economic benefits to be realised.

### 4.6.4 The Public Interest

42. The Commission has considered the public interest in section 4.9.2 of this report.

## 4.7 Additional Considerations

43. In determining this application, the Commission has also considered:
- *Educational Facilities Standards and Guidelines (EFSG)*;
  - *Greener Places (Government Architect NSW)*;
  - *Guideline for Child Care Centre Acoustic Assessment (AAAC)*;
  - *Interim Construction Noise Guideline (ICNG)*;
  - *NSW Noise Policy for Industry (NPfl)*;
  - *NSW Road Noise Policy (RNP)*;
  - *Water Sensitive Urban Design (WSUD)*; and
  - *Western City District Plan (2018)*.

## 4.8 Key Issues

### 4.8.1 Site Suitability

44. The Commission acknowledges that the Site's suitability for a new school, and its compatibility with surrounding land uses, was a concern raised by members of the community.
45. The Commission notes the Applicant's view set out in the EIS that the Project is compatible with the existing adjacent land uses, and would not create an unacceptable economic, environmental, or social impact.

46. Paragraph 6.1.7 of the Department's AR states:

*The development would not have any conflict with agricultural land uses, as adjoining sites accommodate a church and rural residential development. The development's compatibility with the adjoining E2 Environmental Conservation zone was confirmed through its biodiversity assessment.*

47. The Commission agrees with the Applicant and is of the view that the Site is suitable for the purpose of a new school. The Commission agrees with the Department and is of the view that the Project would not have any conflict with agricultural land uses.
48. The Commission agrees with the Department's assessment at paragraphs 6.1.11 and 6.1.12 of the AR that the Project would comply with the objectives of the RU4 Primary Production Small Lots zone, subject to implementation of conditions of consent.
49. Additionally, the Commission is of the view that the proposed land use is appropriate for the Site for the reasons set out in paragraph 4.6.3 of this Statement of Reasons.

#### **4.8.2 Staging**

50. As discussed in paragraphs 15 and 16 above, the Commission acknowledges that the Project is proposed to be delivered over six stages.
51. The Commission agrees with the Department's findings at Table 9 of the AR that construction staging can be appropriately managed on the Site, subject to the implementation of a Construction Environmental Management Plan (**CEMP**) for each stage.
52. To ensure construction staging is appropriately managed, the Commission has imposed schedule 2, condition A17, as recommended by the Department, which requires a Staging Report to be submitted to the Planning Secretary prior to the commencement of the first of the proposed stages of construction.
53. The Commission agrees with the Department that student numbers at the school should be limited in accordance with the staging of the Project. The Commission has therefore imposed schedule 2, condition A18(b) which identifies maximum permissible student numbers for each stage of the Project.
54. The Commission has also imposed schedule 2, condition C10, as recommended by the Department, which requires the Applicant to submit a Construction Environmental Management Plan (CEMP) to the Certifier prior to the commencement of construction of Stage 1.

#### **4.8.3 Built form**

##### *Bulk and scale*

55. The Commission acknowledges that the Project's built form, bulk and scale were key concerns raised by Council.
56. The Commission notes that Council, in its submission to the Department dated 5 December 2018, stated:

*Council's primary objection to the proposal is that the proposed scale of development exceeds the capacity of the site and will result in unacceptable impacts on traffic safety/parking in Kosovich Place/Wallgrove Rd and amenity of adjoining residential properties.*



57. During Council's meeting with the Commission on 12 February 2021, Council stated that "one of the Council's main issues is that the applicant hasn't considered any amendments to the overall layout, scale and number of students included in the proposal that would address Council's objections to the project". Council was also of the view that the scale of the Project is unsympathetic with the topography of the Site.

58. The Commission notes the Applicant's justification for the proposed bulk and scale of the Project as set out in the RTS:

*The design and scale of the proposed development reflects the operational requirements of the school; minimises the building footprint so as to maximise open space and landscaping over the site in direct response to the rural environment; maintains a 'green' and vegetated character; minimises the appearance of bulk and scale through façade articulation, massing, roof modulation, setbacks and landscaping; equitably treats level changes to create appropriate transitions across the grounds; and is limited to two (2) storeys with the roofline to be below the tree canopy (once proposed trees have matured).*

*Importantly, the design of the school and concentration of built form in the east of the site also responds to site constraints including bushfire, flood, land contamination, the riparian zone and topography. The design and siting of buildings best allows for the continuation of natural processes and maintenance of natural landscapes, whilst also mitigating potential hazards and risks for future school students and staff. Site planning thereby responds to the characteristics of the rural environment.*

59. The Commission agrees with the Applicant that the Site is constrained by various environmental characteristics and considers that the arrangement of the school buildings on the Site is appropriate to manage these constraints. The Commission agrees with the Applicant and is of the view that the proposed architectural treatments will reduce the perceived bulk of the school buildings, and that proposed landscaping will mitigate visual impacts from neighbouring properties.

60. The Commission agrees with the Department's findings at paragraph 6.3.32 of the AR:

*The Department has assessed the design of the development and concludes that the buildings would provide for a high quality and flexible learning environment for students. While the built form would result in a long building along the eastern boundary, the façade articulation and varying height of the roof would break the building length effectively.*

61. The Commission finds that further consideration of the design of the eastern retaining and associated landscaping is required to improve the aesthetics of the wall and to provide visual amenity to students, staff and visitors. Refer to further discussion about landscaping at section 4.8.4 below.

### **Building height**

62. Paragraphs 6.3.1 and 6.3.2 of the Department's AR state:

*The site is subject to a maximum building height control of 9m under clause 4.3 of the FLEP 2013. The building height of certain sections of the school building would breach the stipulated height control of 9m...*

*Clause 42 of the Education SEPP provides that consent may be granted for the development of a school that is SSD, even if the development would contravene a development standard imposed by that SEPP or any other environmental planning instrument under which the consent is granted. Consequently, the height, setback and FSR controls within FLEP 2013 do not strictly apply to this development. However, it is still appropriate to give them consideration as a development guide.*

63. The Commission acknowledges that the proposed school building would exceed the FLEP 2013 maximum building height control by 3.8 metres.
64. The Commission notes that neither the library / canteen building or the multi-purpose hall would exceed the maximum building height control.
65. The Commission notes the Applicant's justification for the Project's proposed height non-compliance, as summarised at paragraph 6.3.3 of the AR. The Commission finds that the justification is acceptable because the height non-compliance is limited to one part of the roof form over a section of the western elevation and is required in order to maintain level access to all school facilities.
66. The Commission agrees with the Department's assessment and is of the view that the proposed building height exceedance is acceptable in this case for the reasons set out under paragraphs 6.3.8 and 6.3.9 of the AR.

#### 4.8.4 Landscaping

67. The Commission notes the proposed landscaping and open space treatments proposed as described in section 6.4 of the AR.
68. The Commission notes that no significant trees or vegetation are proposed to be removed to facilitate the development. The Commission supports the Applicant's proposal for new planting on the Site to achieve 40% canopy cover (AR paragraph 6.4.7), including significant new planting along the riparian corridor to the western boundary of the Site (on both sides of the tributary of Ropes Creek).
69. The Commission agrees with the Department that "*landscape design would provide students with a variety of learning experiences with open grassed areas for play activities and programs, nature-based areas and seating areas for gatherings*" (AR paragraph 6.4.3) and that "*the proposed canopy cover would complement the architectural design of the main school building*" (AR paragraph 6.4.10).
70. The Commission understands that the eastern retaining wall is proposed to be a 4.4 metre high shotcrete faced pile wall with only shrubs, small trees and ivy to soften its appearance. The Commission is concerned about the dominant visual appearance of the wall, including the form of the wall, the use of materials and the detailing of components. The Commission disagrees with the Department's comment at paragraph 6.4.4 of the AR and considers that the extent of planting including the width of the planting bed proposed along the base of the wall would be insufficient to provide adequate visual amenity to students and staff. Additionally, the Commission is not convinced that the growth of ivy will adequately cover the shotcrete wall. The Commission is of the view that a dense screen of trees and shrubs must be provided to ensure a high visual amenity environment is provided. The Commission therefore imposes schedule 2, condition B1, which requires an amended landscape plan to be submitted, to the satisfaction of the Planning Secretary, which provides details of the entire retaining wall, including details of proposed materials to improve the aesthetics of the wall and to provide amenity to students and staff. Schedule 2, condition B1 also requires a minimum 2.0 metre wide planting bed at the base of the retaining wall to provide for a dense screen of trees and shrubs to conceal the wall, and a minimum 0.3 metre wide planting bed (instead of the proposed 0.75 metre wide planting bed) to be included along the eastern boundary of the Site for the entire length of the proposed fence.

71. The Commission considers that screening views of the school roof from the property to the east of the Site is of lesser importance than improving the appearance of the retaining wall and the amenity of the internal road which will be used by students, family members, staff and visitors to the school.
72. The plans, including details of the retaining wall elevations and planting beds, should be amended to the satisfaction of the Secretary prior to the issue of the Construction Certificate.
73. The Commission has imposed schedule 2, condition B9, as recommended by the Department, which requires an updated landscape masterplan to be prepared to provide details of the landscaping works in each stage of the development. The updated plans must address the required changes to the landscape design in condition B1, including providing a dense screen of trees along the eastern boundary wall.
74. The Commission has imposed schedule 2, condition B9(f) to ensure WSUD principles are integrated into the landscape design.
75. The Commission has also imposed schedule 2, conditions E43 to E46, as recommended by the Department, to manage the provision of landscaping and open space during the staged delivery of the Project. Schedule 2, condition E46 requires the Applicant to prepare an Operational Landscape Management Plan.
76. Additionally, the Commission has imposed schedule 2, condition F20, which requires the Applicant to maintain the landscaping and vegetation on the site in accordance with the approved Landscape Management Plan, including replanting vegetation if it fails to establish.

#### 4.8.5 Traffic and Parking

77. The Commission acknowledges that traffic, parking and proposed road upgrades were key concerns raised by Council.
78. The Commission received photos as part of a written submission from a member of the community which depicted parked cars in front of their property and along Kosovich Place during a special event at the Church. The Commission notes this is a key concern for members of the community.
79. The Site currently has vehicle access off Kosovich Place, a local road that provides one lane of travel in each direction with a cul-de-sac at its western end near the boundary of the Site (AR paragraph 6.2.1).
80. The Commission notes the Applicant's EIS included a Traffic and Parking Impact Assessment Report (TPIA), which considers the impact of the proposal on traffic and parking in the locality.
81. Paragraph 6.2.10 of the AR notes that "*during the EIS exhibition, Council objected to the development on the basis that the level of traffic generated by the proposed school would result in unacceptable impacts on traffic safety levels in Kosovich Place and Wallgrove Road and generate excessive traffic on Kosovich Place*".
82. Paragraphs 6.2.13 and 6.2.14 of the AR note concerns raised by TfNSW:

*TfNSW raised concerns regarding the assumption that at the final stage of the development, 20% of the students would utilise public transport, noting the lack of sustainable transport in the locality.*

*TfNSW (RMS) raised concerns about the proposed design for Kosovich Place / Wallgrove Road intersection upgrade, expressing a preference for a roundabout to be constructed. TfNSW advised that a Traffic and Parking Management Plan should be submitted as part of the RtS.*

83. The Commission notes the additional traffic assessments undertaken for the Site and surrounding road network, as summarised in the Department's AR (Executive Summary), which states:

*The Department engaged an independent consultant, Bitzios Consulting (Bitzios), to undertake a peer review of the Applicant's traffic assessment in relation to Council's and TfNSW's concerns regarding the traffic impacts of the proposal. Bitzios reviewed the application and on the basis of their review the Department requested additional traffic information from the applicant in June 2020. The Applicant submitted a further SRtS in November 2020 addressing traffic matters raised by Bitzios.*

*Bitzios, Council and TfNSW reviewed the final SRtS from the Applicant. Bitzios advised that the traffic generated by the development can be accommodated within the local road network, subject to the planned future upgrades by TfNSW and proposed upgrades by the Applicant. Bitzios raised concerns regarding the on-site drop-off / pick-up zone operations and have recommended conditions to mitigate the identified impacts.*

*TfNSW has agreed in principle to the proposed intersection upgrade.*

84. The Commission agrees with the Department's finding at paragraph 6.2.34 of the AR and is of the view that the assessment prepared by Bitzios, and traffic modelling and associated assessment of traffic impacts provided by the Applicant, are suitable for considering the nature and extent of operational traffic impacts associated with the proposal.
85. The Commission agrees with the Department's view at paragraph 6.2.35 of the AR that upgrades of nearby intersections will be needed to accommodate the future growth in traffic volume by 2028 due to likely population growth in the area. The Commission is of the view that the delivery of nearby road upgrades, as proposed by TfNSW, would accommodate the school traffic in the final stage, and therefore Stage 1 of the school is not reliant on the Elizabeth Road / Wallgrove Road intersection upgrade. The Commission is therefore of the view that operation of Stage 1 of the school can commence once the Wallgrove Road / Kosovich Place intersection upgrade has been completed.
86. The Commission has imposed conditions of consent to ensure public domain works meet Council requirements and road upgrades are provided to the satisfaction of Council and TfNSW.
87. The Commission has also imposed schedule 2, condition C12, which requires the Applicant to prepare a Construction Traffic and Pedestrian Management Sub-Plan (CTPMSP) to ensure safety and efficiency of the road network during construction.
88. The Commission acknowledges that the *"school drop-off / pick-up peak period may result in traffic congestion within and around the site for a short duration... [and] the Applicant proposes parking management measures to avoid and minimise this congestion during peak times* (Executive Summary of the AR). The Commission agrees with the Department that the proposed management measures will be suitable to manage peak-time congestion. The Commission has therefore imposed schedule 2, condition E16, which requires the Applicant to prepare an Operational Transport and Pedestrian Management Plan (OTPMP), with measures such as staggered drop-off / pick-up times required to manage congestion.

89. The Commission notes that a development application has been lodged with Council for the Church to increase the attendees at the Church from 80 to 266. The Commission agrees with the Department and anticipates that Council, as the consent authority for this development application, would consider the cumulative impacts of the Church operation and the operation of the school in the future (AR paragraph 6.2.39).

#### 4.8.6 Flooding and stormwater

##### *Flooding*

90. The Commission understands that the western portion of the Site comprises flood prone land, as set out in the Applicant's Flood Management Assessment, which was prepared as part of the EIS.
91. The Commission notes the key finding of the Flood Management Assessment, that "*all school buildings, car park and access are located above the [probable maximum flood (PMF)] level and therefore outside all mapped flood risk precincts*".
92. In addition, the Commission notes the other findings of the Flood Management Assessment, which are summarised at paragraph 6.7.1 of the AR, and state:
- *the playing fields and multi-purpose courts are proposed to be located within the low and medium risk flood precinct. These areas have been assessed as recreational areas (rather than educational use) against the relevant controls within the FDCP. The proposed works would not impact on the flood behaviour within the site.*
  - *earthworks have been minimised in the western part of the site... and would result in very minor increase in the flood storage volume.*
  - *the extents of the 1 in 100-year [Average Recurrence Interval (ARI)] and PMF peak flood on the site would be slightly altered post development.*
  - *the proposed works would not result in any adverse impacts on the downstream properties due to flooding.*
93. The Commission agrees with the Department and Council that the "*playing fields would be used as part of the school. Consequently, these sections of the site should be considered as sensitive / educational uses and assessed against those relevant sections of the FDCP to ensure safety of the students in the long term*" (AR paragraph 6.7.7).
94. The Commission has therefore imposed conditions requiring the preparation of an updated flood assessment report based on Council's adopted flood model with a revised peer review report and additional flood mitigation measures (where relevant) at schedule 2, conditions B19 to B23.
95. The Commission has also imposed schedule 1, conditions E48 and E49, which require the preparation of a Flood Emergency Management Plan prior to the issue of an occupation certificate for Stage 1. The Commission notes the Applicant's commitment to prepare such a plan.

##### *Stormwater*

96. With regard to stormwater, the Commission agrees with the Department's findings at paragraph 6.7.24 of the AR, which states:

*The Department is satisfied that subject to future consultation with Council and preparation of an appropriate drainage design in conjunction with the kerb, gutter and footpath for the road, the development would result in an improved outcome for the public infrastructure that would cater for the site, the church and other residential developments on the road.*



97. The Commission has also imposed conditions to ensure stormwater impacts are mitigated, including schedule 2, conditions B3 to B5, which require the preparation of a Stormwater Management System, including hydraulic modelling for the entire site and covering all stages of construction, in consultation with Council.

#### 4.8.7 Other Issues

##### Noise

98. The Commission notes that Council, in its submission to the Department dated 5 December 2018, stated:

*The application is also flawed as a result of deficiencies in a number of technical reports submitted with the application in relation to... noise impacts. As a result, it is unclear whether the proposed measures to mitigate impacts of the development on the surrounding natural and built environments are adequate.*

99. The Commission notes the Amended Noise Assessment (Appendix D of the Applicant's Additional Information), prepared by SLR Consulting and dated March 2020. With regards to operational noise, the assessment finds:

*Noise emission breakout via the School Hall building envelope will require further consideration during the detail design phase, however it is expected that a compliant design for all activities in the Hall will be readily achievable.*

*Noise associated with the school bell and PA system is expected to comply with the intrusive noise criterion when observed at the nearest sensitive receptors.*

*Noise associated with students in outdoor areas is considered an integral, but unavoidable, part of the School... a quantitative assessment of that type of noise using the AAAC Childcare Guidelines "background plus" criterion was undertaken and predicted to comply with the established noise limit.*

*Noise from vehicles on the internal road between the carpark and Kosovich Place during the drop-off and pickup times would be expected to comply with the applicable NPfI noise intrusion limit.*

100. The Commission agrees with the conclusions of the Amended Noise Assessment and considers the anticipated noise generation an unavoidable part of school operations.
101. The Commission agrees with the Department's findings in paragraph 6.5.29 of the AR and is satisfied the Project can operate in accordance with the established noise limits set out in the Noise Policy for Industry and AAAC, subject to the implementation of management and mitigation measures.
102. The Commission has therefore imposed the Department's recommended conditions relating to operational noise, including schedule 2, conditions B16 to B18, and schedule 2, conditions E21 and E22, and schedule 2, conditions F11 to F14, which require additional testing, the application of acoustic treatments, and ongoing monitoring of operational noise limits.
103. The Commission has also imposed the Department's recommended conditions relating to construction noise, including schedule 2, conditions D17 to D19.

##### Pedestrian access

104. The Commission notes that the main pedestrian entry to the school is proposed from Kosovich Place via a pedestrian entry ramp (AR paragraph 2.3.12) and pedestrian connections within the Site are proposed to appropriately respond to the slope of the site (AR paragraph 6.2.48).

105. The Commission notes there are currently no footpaths in Kosovich Place and therefore supports the proposed new 1.5m wide pedestrian footpath on the southern side of Kosovich Place (AR Table 1).
106. The Commission notes the Department's view that the design of the internal drop-off / pick-up area has the potential to result in conflict between pedestrians and vehicles within the Site, if not managed appropriately. The Commission agrees with the Department's recommendation and has imposed schedule 2, condition E16 requiring the preparation and implementation of an Operational Transport and Pedestrian Management Plan (OTPMMP) prior to occupation of Stage 1.

#### *Utility upgrades*

107. The Commission acknowledges the following civil and infrastructure works are proposed to support the Project, as set out at paragraph 2.3.14 of the AR:
  - *upgraded electricity supply, including a pad-mount substation within the site.*
  - *communications and data network, including NBN glass fibre cable connection to the premises.*
  - *an on-site pump out system within the staff carpark proposed to be operational at the commencement of Stage 1.*
  - *the pump-out system converted to an on-site sewer treatment plant (STP) for the proposed stages beyond Stage 1...*
  - *...a stormwater management system for the site, draining towards the creek, including three on-site detention tanks, two bio-retention basins, stormwater quality measures, trunk drainage pipe and rain gardens.*
  - *a diesel pump hydrant booster to increase the pressure of the mains water supply for on-site fire hydrants and other hydraulic services including a hot and cold-water system.*
  - *mechanical services including heating, cooling and fresh air ventilation systems.*
108. The Commission notes that the Application has been referred to relevant public authorities and is of the view that appropriate infrastructure services are capable of being delivered to support the Project. The Commission has imposed conditions of consent to ensure arrangements are made to ensure provisions of adequate services.

#### *Wastewater management*

109. The Commission notes Council's concerns regarding wastewater management in their submission dated 5 December 2018, which states:

*Given the complexity of the sewage management system and the constraints that exist where the sewer disposal systems is located (i.e. flood liable land, proximity to Ropes Creek, salinity and water table issues), an independent wastewater treatment consultant should be required to conduct a peer review of the abovementioned wastewater assessment report.*
110. The Commission notes the Applicant's comments about wastewater management in their RTS (Appendix A).
111. The Commission acknowledges the Department's assessment which finds the "*proposed on-site wastewater management strategy is suitable for the site and includes adequate treatment facilities and irrigation area to cater for operation of the site, subject to recommended conditions*" (Executive Summary of the AR).
112. The Commission notes the advice from the EPA and agrees with the Department that the wastewater strategy for the Site would be suitable for the Project (AR paragraph 6.6.9).

113. The Commission agrees with the Department that the recommended conditions are appropriate to ensure the satisfactory delivery and maintenance of a wastewater system at the Site. The Commission has therefore imposed schedule 2, conditions B24 to B27, and schedule 2, conditions E32 to E35, and schedule 2, condition F25.

#### *Site contamination and remediation*

114. The Commission notes Council's comments in their submission dated 5 December 2018 that "*insufficient / inadequate information has been submitted in relation to remediation of site contamination*".
115. The Commission notes the Department's assessment of site contamination and proposed remediation at Table 9. The Commission agrees with the Department that subject to the implementation of recommended conditions, the Site can be made suitable for the proposed use.
116. The Commission has therefore imposed schedule 2, condition A36, conditions C22 to C26, conditions D2 to D6, and conditions E40 to E42, as recommended by the Department.

#### *Bushfire*

117. The Commission notes the Applicant's EIS which states that the "*Site together with adjoining land to the east, south and west is identified as 'Category 3 Bushfire Prone Vegetation' in Fairfield City Council's Bushfire Prone Land Map*".
118. The Commission agrees with the Department's assessment of bushfire risk provided at Table 9 of the AR, which states:

*The Department notes that the site is located on vacant land a considerable distance from bushland.*

*The Department agrees with NSW RFS comments and has recommended conditions of consent which require the Applicant to:*

- *manage the site including future landscaping works as an Inner Protection Area.*
  - *ensure construction is carried out in accordance with the relevant standards.*
  - *prepare an emergency management plan.*
119. The Commission has imposed schedule 2, conditions A27 and A28, as recommended by the Department, which require appropriate design and construction within bushfire prone land. The Commission has also imposed schedule 2, condition E17, which requires the preparation of a Bush Fire Emergency Management and Evacuation Plan prior to the issue of the occupation certificate for Stage 1.
120. Additionally, the Commission agrees with the Department's recommended condition and has imposed schedule 2, condition E47, which requires the entire Site to be managed as an inner protection zone (IPA).

#### *Aboriginal and European heritage*

121. The Commission notes Table 9 of the Department's AR which states that the Project would not adversely impact on European or Aboriginal cultural heritage on or near the Site. Additionally, the Commission is of the view that the Site has low archaeological potential for both European and Aboriginal relics as the Site has been significantly disturbed by farming practices and contains areas of fill.

122. The Commission agrees with the Department's assessment that any unexpected finds can be satisfactorily addressed through conditions of consent. As such, the Commission has imposed schedule 2, condition C10, and schedule 2, condition D5, and schedule 2, conditions D32 and D33. The Commission notes that the Applicant consulted with the Registered Aboriginal parties and no relevant or social or cultural values for the Site were identified.

#### *Social and economic impacts*

123. The Commission agrees with the Department's view at Table 9 of the AR that the Project would provide benefit for the community by delivering contemporary teaching and learning facilities.
124. Table 1 of the Department's AR states that the Project would provide 43 jobs during construction and 45 jobs during operation of the Project. The Commission is of the view that this would have a positive contribution to local employment and economic activity.
125. The Commission acknowledges that the Site was previously used for agricultural production, however given that the locality is likely to be urbanised in the future due to its proximity to the Western Sydney Airport, the Commission agrees with the Department's assessment and is of the view that use of the Site for agricultural purposes is unlikely in the future.
126. Given the current rural context of the Site, the Commission considers that the potential for conflicts or incompatibility with surrounding land uses is minimal.
127. The Commission agrees with the Department's assessment at Table 2 of the AR that the Project is an orderly and economic development and use of the land.

## **4.9 Objects of the EP&A Act and Public Interest**

### **4.9.1 Objects**

128. In this determination, the Commission has carefully considered the Objects of the EP&A Act. The Commission agrees with the Department's assessment of the Application against the Objects of the EP&A Act provided at Table 2 of the AR (Response to the objects of section 1.3 of the EP&A Act), which finds that the Application can be approved in a manner that is consistent with those Objects. The Commission adopts the Department's assessment and is of the view that the Application is in accordance with the Objects of the EP&A Act.
129. The Commission finds the Application has been assessed in accordance with relevant environmental planning instruments and is capable of complying with the required mitigation measures to achieve consistency with the Objects of the EP&A Act.

#### *Ecologically Sustainable Development*

130. Paragraph 4.4.5 of the Department's AR sets out the proposed Ecologically Sustainable Development (**ESD**) initiatives and sustainability measures proposed by the Applicant.
131. The Commission acknowledges that the Applicant is targeting a 4-Star Green Star development, consistent with the 4-Star Green Star rating under the *Educational Facilities Standards and Guidelines* design guide (AR paragraph 4.4.6). The Commission agrees that this target is appropriate and has imposed schedule 2, condition C21, which requires the Applicant to demonstrate that ESD be achieved by registering for a minimum 4-star Green Star rating with the Green Building Council Australia prior to the commencement of construction.

#### 4.9.2 Public Interest

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

*The Department considers that the proposal would provide benefit for the community by delivering contemporary teaching and learning facilities. The proposal is in the public interest.*

*The Department is satisfied that the proposed development would have a positive social impact through providing community benefit and environmental improvement on the site.*

133. The Commission finds that on balance, and when weighed against the Objects of the EP&A Act, principles of ecologically sustainable development (ESD) and benefits, the impacts of the Project are acceptable and capable of being appropriately mitigated through the measures required under the conditions of consent imposed by the Commission. The Commission is of the view that the Project is in the public interest.



## 5 THE COMMISSION'S FINDINGS AND DETERMINATION

134. The views of the community were expressed through public submissions received as part of exhibition and as part of the Commission's determination process. The Commission carefully considered all these views as part of making its decision.
135. The Commission has also carefully considered the submission prepared by Council and acknowledges the concerns raised by Council.
136. The Commission has carefully considered the Material before it as set out in section 4.4 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 in an area of projected population growth and increasing demand for primary school places and is suitable for the purpose of a new school;
  - the Site is in an accessible location;
  - adverse impacts of the Project on surrounding receivers have been considered in the layout and design of the school and would be further managed and mitigated by the imposed conditions of consent;
  - environmental impacts have been avoided and mitigated where possible and residual impacts would be managed and mitigated by the imposed conditions of consent;
  - the Project is consistent with relevant strategic plans;
  - the development of the Site for the purpose of a new school is an orderly and economic use and development of land; and
  - the development of the of the Site for the purpose of a new school will allow the anticipated social and economic benefits to be realised.
137. For the reasons set out in paragraph 136, the Commission has determined that the Application should be granted consent 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.
138. The reasons for the Decision are given in this Statement of Reasons for Decision dated 26 February 2021.



**Peter Duncan AM (Chair)**  
Member of the Commission



**Adrian Pilton**  
Member of the Commission

## APPENDIX A

*Main Components of the Project (Source: Table 1, Department's AR, dated January 2021)*

Aspect	Description
<b>Project summary</b>	Construction of a new primary school (K – 6) for up to 630 students and 35 staff members in six stages comprising site preparation and remediation, earthworks, construction of three school buildings, at-grade car parking, internal and external roadworks and stormwater works, on-site sewage management works and landscaping.
<b>Site area</b>	<ul style="list-style-type: none"> <li>• 29,350m<sup>2</sup>.</li> </ul>
<b>Site preparation works</b>	<ul style="list-style-type: none"> <li>• Bulk earthworks and benching.</li> <li>• Remediation works within Lot 2321 only.</li> </ul>
<b>Built form (final completed development)</b>	<ul style="list-style-type: none"> <li>• Construction of three new buildings comprising:               <ul style="list-style-type: none"> <li>○ one L-shaped two storey building (maximum height at RL 106.35) accommodating 21 general learning areas (GLAs), administration and staff areas, covered play areas, and amenities.</li> <li>○ one single storey building (maximum height at RL 102.72) accommodating the library and canteen.</li> <li>○ a two storey multi-purpose hall (maximum height at RL 103.4) including amenities, storeroom and an attached covered outdoor learning area (COLA).</li> <li>○ one COLA at the north-western corner of the school building.</li> <li>○ one COLA adjacent to the riparian zone at the north-western corner of the site.</li> <li>○ covered walkways connecting the buildings.</li> </ul> </li> </ul>
<b>Gross floor area (GFA)</b>	<ul style="list-style-type: none"> <li>• 4990m<sup>2</sup> including:               <ul style="list-style-type: none"> <li>○ school building – 4025m<sup>2</sup></li> <li>○ multi-purpose hall – 625m<sup>2</sup>.</li> <li>○ library and canteen – 340m<sup>2</sup>.</li> </ul> </li> </ul>
<b>Access</b>	<ul style="list-style-type: none"> <li>• Vehicle access from Kosovich Place with an internal driveway.</li> <li>• Pedestrian access from Kosovich Place via a pedestrian entry ramp.</li> </ul>

<b>Car parking</b>	<ul style="list-style-type: none"> <li>• 39 car parking spaces for staff and visitors (two accessible spaces).</li> <li>• 30 on-site drop-off / pick-up car parking spaces.</li> </ul>
<b>Landscaping works</b>	<ul style="list-style-type: none"> <li>• A ground level plaza (known as the 'civic heart') and amphitheatre.</li> <li>• One playing field and a hard surface multi-purpose sports court.</li> <li>• Revegetation of riparian corridor and planting throughout the site.</li> <li>• Retaining wall along the eastern boundary with planting to create a future green wall.</li> </ul>
<b>Roadworks and intersection upgrade</b>	<ul style="list-style-type: none"> <li>• Upgrades to Kosovich Place / Wallgrove Road intersection including: <ul style="list-style-type: none"> <li>○ a 26.6m long auxiliary lane providing for the storage of vehicles waiting to turn right from Wallgrove Road into Kosovich Place.</li> <li>○ a 100m long (including taper) auxiliary lane providing for the deceleration of vehicles turning left into Kosovich Place.</li> <li>○ "No Right Turn" with a concrete island, on Kosovich Place.</li> </ul> </li> <li>• Widening of Kosovich Place to 7m until the end of the entrance driveway and 10m at the cul-de-sac end with kerb and gutter.</li> <li>• 1.5m wide pedestrian footpath on the southern side of the road.</li> <li>• Four bus bays on Kosovich Place.</li> </ul>
<b>Wastewater management</b>	<ul style="list-style-type: none"> <li>• A sewage pump-out system in Stage 1.</li> <li>• On-site sewer treatment plant with sub-surface irrigation area for the completed development.</li> </ul>
<b>Signage</b>	<ul style="list-style-type: none"> <li>• Two non-illuminated signs at the main school entrance and on the multi-purpose hall.</li> </ul>
<b>Jobs</b>	<ul style="list-style-type: none"> <li>• 45 operational jobs and 43 construction jobs.</li> </ul>
<b>CIV</b>	<ul style="list-style-type: none"> <li>• \$30,727,000.</li> </ul>