



New South Wales Government  
Independent Planning Commission

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# Pymble Ladies College – Grey House Precinct

## SSD-17424905

### Statement of Reasons for Decision

Adrian Pilton (Chair)  
Dr Sheridan Coakes  
Soo-Tee Cheong OAM

9 December 2022

## Executive Summary

The NSW Independent Planning Commission has determined to grant deferred commencement consent to Pymble Ladies College – Grey House Precinct (SSD-17424905) (the Application). The Application, made by Pymble Ladies College (the Applicant), relates to the demolition of two existing demountable buildings; the construction of a new four to five storey building that will accommodate classrooms, laboratories; health and wellbeing facilities; dance academy; out-of-school-hours care facility; early learning centre (ELC) for 90 additional children; outdoor learning spaces and covered outdoor learning area; and associated landscaping works.

Commissioners Adrian Pilton (Chair), Dr Sheridan Coakes and Soo-Tee Cheong OAM were appointed to constitute the Commission in determining this Application.

In determining SSD-17424905, the Commission carefully considered the Application, the Department's Assessment Report, advice from relevant Government agencies, Ku-ring-gai Council and concerns raised by interested individuals at the Community Stakeholder Meetings and in written submissions. The Commission finds that the Project will provide a range of public benefits, including new education infrastructure, and new construction and operational jobs.

The Commission also finds the impacts of the Project - when weighed against the objects of the EP&A Act, ESD principles and benefits of the Project - are acceptable and can be reasonably and satisfactorily avoided, mitigated and managed through conditions.

For the reasons set out in this Statement of Reasons, the Commission has granted a deferred commencement consent to the Application. The deferred commencement condition was imposed in order to allow the Applicant to satisfactorily address concerns held by the occupants of 57A and 59B Pymble Avenue in relation to visual, overshadowing and privacy impacts prior to the commencement of the development the subject of the Application.

The Commission has imposed strict conditions of consent to ensure the Project complies with the relevant criteria and standards, its impacts are consistent with the predictions in the Applicant's EIS (including supplementary material) and that residual impacts are minimised, mitigated and managed. The deferred commencement conditions imposed by the Commission require the Applicant to either:

- submit amended architectural and landscape plans to address the Commission's findings in relation to amenity and social impacts; or
- purchase or lease the properties located at 57A and 59B Pymble Avenue; or
- enter into written agreements with landowners of the properties located at 57A and 59B Pymble Avenue.

The conditions imposed by the Commission have been designed to prevent, minimise and/or offset adverse environmental impacts; mitigate social and amenity impacts on the adjacent properties; 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.

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## Defined Terms

ABBREVIATION	DEFINITION
<b>AFC</b>	Aquatic and Fitness Centre
<b>Applicant</b>	Pymble Ladies College
<b>Application</b>	Pymble Ladies College – Grey House Precinct (SSD-17424905)
<b>AR</b>	The Department’s Assessment Report, dated August 2022
<b>AR para</b>	Paragraph of the Department’s Assessment Report
<b>CIV</b>	Capital investment value
<b>COLA</b>	Covered outdoor learning area
<b>Commission</b>	NSW Independent Planning Commission
<b>Council</b>	Ku-ring-gai Council
<b>Department</b>	Department of Planning and Environment
<b>DOPU</b>	Drop-off / Pick-up area
<b>Education SEPP</b>	<i>State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017</i>
<b>EIS</b>	Environmental Impact Statement, prepared by Willowtree Planning dated October 2021, and its accompanying appendices
<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>GFA</b>	Gross Floor Area
<b>GHP</b>	Grey House Precinct
<b>KLEP 2015</b>	<i>Ku-ring-gai Local Environmental Plan 2015</i>
<b>LGA</b>	Local Government Area
<b>m<sup>2</sup></b>	Square meters
<b>Mandatory 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 3.2
<b>OSCH</b>	Out-of-school-hours care
<b>Planning Systems SEPP</b>	<i>State Environmental Planning Policy (Planning Systems) 2021</i>
<b>PLC</b>	Pymble Ladies College
<b>Project</b>	Development of the Pymble Ladies College Grey House Precinct (GHP), including the demolition of existing structures and construction of a new four to five storey building accommodating: classrooms, laboratories, health and wellbeing facilities, a dance academy, out-of-school-hours care facilities, as well as a new early learning centre for 90 children and associated landscaping works
<b>RtS</b>	Response to Submissions, prepared by Willowtree Planning dated 4 May 2021, and its accompanying appendices
<b>SDRP</b>	State Design Review Panel
<b>Site</b>	20 Avon Road, Pymble within the Pymble Ladies College campus (Lot 1 DP 69541)
<b>SRD SEPP</b>	<i>State Environmental Planning Policy (State and Regional Development) 2011</i>
<b>SRtS</b>	Supplementary Response to Submissions, prepared by Willowtree Planning dated 9 June 2022, and its accompanying appendices
<b>SSD</b>	State significant development
<b>STEM</b>	Science, technology, engineering and mathematics
<b>TIA</b>	Traffic Impact Assessment Report
<b>VIA</b>	Visual Impact Assessment Report

# 1. Introduction

1. On 17 August 2022, the NSW Department of Planning and Environment (**Department**) referred a State significant development (**SSD**) application (SSD-17424905) (**Application**) from Pymble Ladies' College (**Applicant**) to the NSW Independent Planning Commission (**Commission**) for determination.
2. The Application seeks approval for the development of the Pymble Ladies College 'Grey House Precinct' (**GHP**) (the **Project**) located in the Ku-ring-gai Council Local Government Area (**LGA**) under section 4.38 of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**).
3. The Commission is the consent authority in respect of the Application under section 4.5(a) of the EP&A Act and section 2.7 of the *State Environmental Planning Policy (Planning Systems) 2021* (**Planning Systems SEPP**) because:
  - the Application constitutes SSD under section 4.36 of the EP&A Act and clause 15(2) of Schedule 1 of the *State Environmental Planning Policy (State and Regional Development) 2011* (**SRD SEPP**), which was in force at the time the Application was made, as it is development for the purpose of alterations or additions to an existing school that has a capital investment value (**CIV**) of more than \$20 million; and
  - the Department received an objection to the development from Ku-ring-gai Council (**Council**).
4. Professor Mary O'Kane AC, Chair of the Commission, appointed Adrian Pilton (Chair), Dr Sheridan Coakes and Soo-Tee Cheong OAM to constitute the Commission Panel determining the Application.

## 2. The Application

### 2.1 Site and Locality

5. The Department's Assessment Report (**AR**), dated August 2022, identifies the site as Lot 1 DP 69541 at 20 Avon Road Pymble, within the Pymble Ladies' College (**PLC**) campus (**Site**).
6. The PLC campus is located near the Pacific Highway, approximately 200 metres from Pymble railway station and 8 kilometres northeast of the Chatswood CBD (AR para 1.2.1), as illustrated in **Figure 1**. It is comprised of multiple lots, all owned by the Applicant. The whole PLC campus is approximately 20 hectares and comprises a sloping topography (falling from north to south with a cross fall from east to west) and a natural gully line running along its north-western boundary (AR para 1.2.3). The northern and western boundaries of the campus have frontages to Avon Road, and the southern boundary adjoins the Avondale Golf Course. The eastern and western boundaries adjoin the rear of residential properties (AR para 1.2.3).
7. The Site – being Lot 1 DP 69541 – is the largest lot within the PLC campus and runs along the south-eastern boundary. The Site currently accommodates temporary demountable buildings, a lawn area, pedestrian paths and existing vegetation (AR para 1.2.11).



Figure 1 – Local Context Map (Source: AR Figure 2)

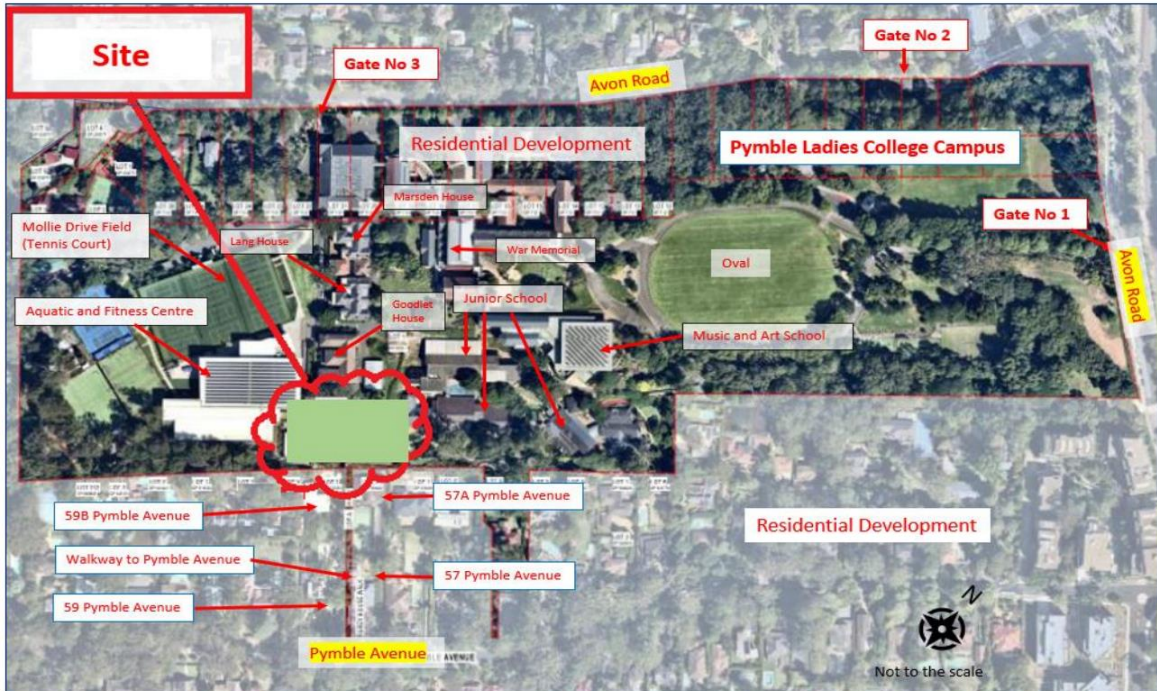


## 2.2 Existing Development and Operation

### 2.2.1 Existing Development

8. The PLC campus currently includes the following development (AR para 1.2.5):
  - historic school buildings including Marsden House, Goodlet House and Lang House (boarding houses);
  - war memorial;
  - single storey Junior School buildings and Music and Art School in the north-east;
  - contemporary multistorey Aquatic and Fitness Centre (AFC) connected to the Jeanette Buckham Physical Education Centre to the south-east;
  - large oval at the front section of the Site;
  - tennis courts (also known as Mollie Dive Field) at the rear of the site adjoining the AFC;
  - basement car park (Centenary Car Park) located below the Mollie Dive Field tennis courts; and
  - residences owned by PLC adjoining an open grassed area on the western boundary of the campus.
9. **Figure 2** below illustrates the location of the existing buildings within the PLC campus.

**Figure 2 – Location of Existing Buildings within the PLC Campus**  
(Source: AR Figure 3)



**2.2.2 Existing Operations**

- 10. PLC is an independent girls’ school that currently caters for Kindergarten (K) to Year 12 and for day and boarding students. The Commission understands the school currently has 2,259 enrolled students (including 120 boarders) and 400 full-time equivalent staff members (AR para 1.2.7). The school’s hours of operation are 6:30am-6:30pm weekdays and 7am-12pm on Saturdays.
- 11. The PLC campus is also available for use by the community (AR para 1.6.4) including:
  - swimming carnivals for other local schools, learn-to-swim, and water polo competitions in the AFC;
  - use of sports facilities by local sports groups;
  - use of the Chapel for special events; and
  - use of the theatre within the Music and Art School for events in the local community.

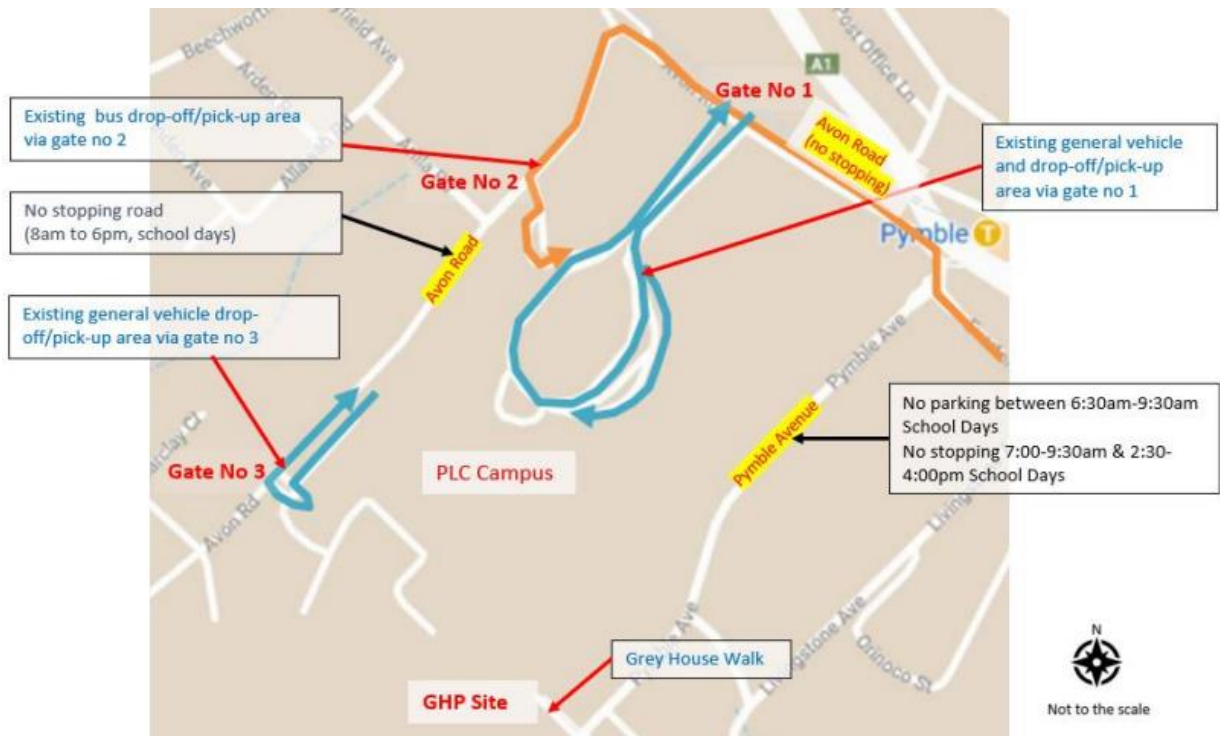
**2.2.3 Car Parking and Site Access**

- 12. The PLC campus has 3 main vehicle access points, including Gates 1 (Marden Gates), 2 and 3 (AR para 1.2.8) (**Figure 2**). Pedestrian access to the PLC campus is provided through the main pedestrian entry on Avon Road, adjacent to Gate 1, and Grey House Walk on Pymble Avenue, located between 57 and 59 Pymble Avenue.
- 13. There are currently 548 on-site car parking spaces for staff and visitors (AR para 1.2.9).



14. AR paras 1.2.8 to 1.2.10 outline the drop-off and pick-up operation on site, with car parking restrictions applying along Avon Road and Pymble Avenue, which is illustrated in **Figure 3**. Service vehicle access is via the 3 main vehicular access points described in para 12.

**Figure 3 – Existing Drop-off / Pick-up Routes and On-street Parking Restrictions**  
(Source: AR Figure 4)



### 2.3 Related Development

15. The Commission notes there is a Concept Masterplan (**Masterplan**) that addresses the on-going development of the PLC campus facilities over four stages (AR para 1.3.1). The Department, in July 2013, approved the Concept Proposal and Stage 1 (SSD-5314) for Phase 2 of the Masterplan (**Approved Concept Proposal**). The Approved Concept Proposal included building envelopes for various buildings on-site, to be constructed in four stages. **Table 1** outlines the 4 stages of the Approved Concept Proposal, the works proposed in each stage and the current status of the works proposed.

**Table 1 – Stages of the Approved Concept Proposal Works Proposed and Current Status of Works** (Source: AR para 1.6.1 to 1.6.3)

Stage	Works Proposed	Current Status of Works Proposed
Stage 1	<ul style="list-style-type: none"> <li>demolition of existing swimming pool and construction of AFC</li> <li>minor upgrade of an existing building, landscaping and utilities</li> <li>Relocation of Mollie Dive Field 3.2m to the West</li> </ul>	AFC constructed and operational.



<b>Stage 2</b>	<ul style="list-style-type: none"> <li>raising Mollie Dive Field and provision of car parking below for 232 vehicles</li> <li>reducing the capacity of an existing car park from 57 spaces to 36 spaces</li> <li>landscaping and tree removal</li> </ul>	Centenary Car Park and raising of the Mollie Dive tennis courts have been completed.
<b>Stage 3</b>	<ul style="list-style-type: none"> <li>removal of an existing 15 space car park</li> <li>construction of a new Dining and Function Centre Building with landscaping</li> </ul>	Stages 3 and 4 have not been progressed.  The Applicant does not intend to complete the remaining stages of the Approved Concept Proposal.
<b>Stage 4</b>	<ul style="list-style-type: none"> <li>construction of a new two storey Healthcare Centre Building with landscaping</li> </ul>	

## 2.4 The Project

16. The Application comprises the following works:
- demolition of two existing demountable buildings;
  - construction of a new four to five storey building that will accommodate:
    - classrooms (junior school classrooms years 5 and 6);
    - laboratories (science, technology, engineering and mathematics (**STEM**) laboratories);
    - health and wellbeing facilities (consulting rooms/wards);
    - a dance academy;
    - an additional out-of-school-hours care facility to accommodate up to 120 students (**OSHC**);
    - early learning centre (**ELC**) for 90 additional children;
    - outdoor learning spaces for existing students;
    - covered outdoor learning area (**COLA**); and
    - associated landscaping works (AR paragraph 2.1.1).
17. A summary of key components of the Project is provided in **Table 2**. A detailed description of the building components is provided at section 2 of the Department's AR.

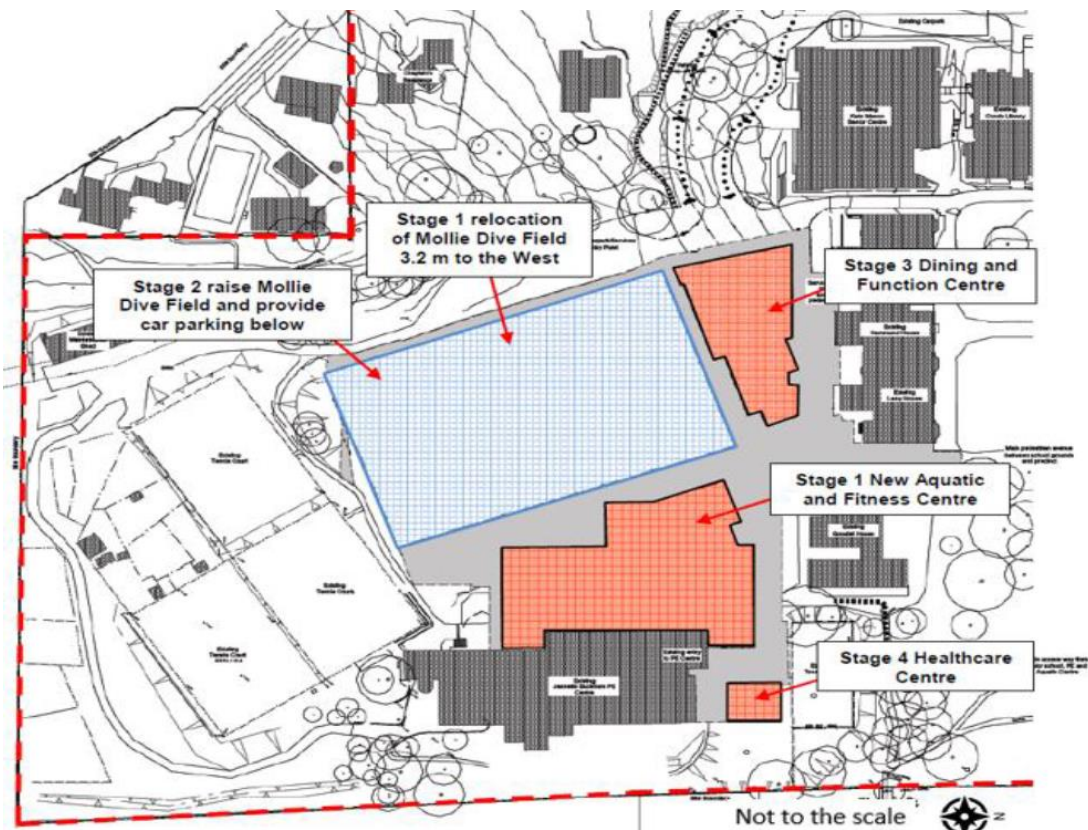
**Table 2** – Key components of the proposal (Source: AR Table 1)

Aspect	Proposed
<b>Gross Floor Area</b>	5,837 square meters (m <sup>2</sup> )
<b>Building height</b>	20.6 metres
<b>Physical layout and design</b>	<p>Four-five storey building stepped down the slope of the Site, including:</p> <ul style="list-style-type: none"> <li>the two lower floors partly submerged creating a large podium on the southern and eastern sides at level 2;</li> <li>the upper floors are proposed to be recessed above the podium, to allow the stepping of the built form to the south and east;</li> <li>outdoor spaces would be provided at ground and on upper-level courtyards/terraces; and</li> </ul>

	<ul style="list-style-type: none"> <li>pedestrian access along south-eastern boundary connecting the Project to the surrounding buildings to the south.</li> </ul>
<b>Landscaping</b>	<ul style="list-style-type: none"> <li>removal of 29 trees;</li> <li>planting of 37 trees; and</li> <li>landscaped areas with outdoor learning spaces and COLA.</li> </ul>
<b>Car parking and Drop-off / Pick-up (DOPU)</b>	Use of 38 existing car parking spaces, including one accessible space, within the Centenary Car Park.
<b>Hour of operation</b>	<ul style="list-style-type: none"> <li>Junior school: 7:30am-5:30pm, Monday to Friday;</li> <li>STEM: 7:30am-5:30pm, Monday to Friday;</li> <li>health and wellbeing centre: 7:30am-7pm;</li> <li>dance academy: 6:30am-8am and 3pm-6:30pm Monday to Friday, and 7am-12pm Saturdays;</li> <li>OSHC: 6:45am-8am and 3pm-7pm Monday to Friday and holiday program: 7:30am-6pm Monday to Friday; and</li> <li>New ELC: 7am-6:30pm Monday to Friday.</li> </ul>
<b>Students and staff capacity</b>	<ul style="list-style-type: none"> <li>No change to existing PLC student and staff numbers; and</li> <li>90 additional children (0-5 years) and 20 staff for ELC.</li> </ul>

**2.4.1 Modification of Approved Concept Proposal**

*Figure 4 – Approved development under SSD-5314 showing location of the Healthcare Centre (Source: AR Figure 18)*



18. According to the Department, the envelope of the Healthcare Centre in SSD-5314 (**Figure 4**), would partly overlap on the Project's building footprint, mainly due to the dance studios on the western side of the proposed building (AR paragraph 2.6.1). To address this, the Applicant lodged a notice to the Department, on 3 August 2022, seeking to modify the Approved Concept Proposal (AR paragraph 5.8.7), pursuant to section 67 of the EP&A Reg. The Applicant's notice seeks the removal of the envelope for the Healthcare Centre and the deletion of any reference to Stage 4, as the Applicant does not intend to carry out any of the works in Stage 4 (AR paragraph 2.6.2). The Applicant's request to modify SSD-5314 also forms part of the assessment for consideration by the Commission.

## 3. The Commission's Consideration

### 3.1 The Commission's Meetings

19. As part of its determination process, the Commission met with various persons, as set out in **Table 3**. All meetings and site inspection notes have been made available on the Commission's website.

*Table 3 – Commission's Meetings*

Meeting	Date	Transcript/Notes Available
Department	1 September 2022	8 September 2022
Applicant	1 September 2022	8 September 2022
Council	9 September 2022	15 September 2022
Site Inspection	30 August 2022	9 September 2022
Community Stakeholder Meetings	12 September 2022	19 September 2022

### 3.2 Material Considered by the Commission

20. In making its determination, the Commission has carefully considered the following material (**Material**), along with other documents referred to in this Statement of Reasons:
- the Applicant's Environmental Impact Statement (**EIS**), prepared by Willowtree Planning dated October 2021, and its accompanying appendices;
  - all submissions made to the Department in respect to the Application during the public exhibition of the EIS, from 9 November until 6 December 2021;
  - the Applicant's Response to Submissions (**RtS**), prepared by Willowtree Planning dated 4 May 2021, and its accompanying appendices;
  - the Applicant's Supplementary RtS (**SRtS**), prepared by Willowtree Planning dated 9 June 2022, and its accompanying appendices;
  - all agency advice to the Department;
  - the Department's referral letter to the Commission, received by the Commission on 17 August 2022;
  - the Department's AR, dated August 2022;

- the Department's recommended conditions of consent, received by the Commission on 17 August 2022;
- the notes and photographic log of the site inspection held on 30 August 2022;
- the transcripts and presentation material from all stakeholder meetings listed in **Table 3**;
- all written submissions received and accepted by the Commission;
- correspondence and an accompanying appendix from a community member received and accepted by the Commission as additional information, dated 7 November 2022;
- correspondence from the Department to the Commission dated 18 November 2022, including its accompany appendices; and
- the Department's comments on the feasibility and workability of proposed conditions, dated 7 December 2022.

### 3.3 Statutory Context

#### 3.3.1 State Significant Development

21. As described at paragraph 3, the Project constitutes SSD under section 4.36 of the EP&A Act and clause 15(2) of Schedule 1 of the SRD SEPP, which was in force at the time the Application was made.
22. The Commission notes that the proposed ELC does not by itself constitute SSD. The Department states that "Clause 8(2) of the SRD SEPP provisions confirms that where a single proposed development, in this instance the school component, is the subject of one development application and comprises development that is only partly [SSD] under subclause 8(1), the remainder of the development is also declared to be [SSD]" (AR para 4.1.2).
23. The Commission agrees with the Department that the ELC is sufficiently related to the school to allow the entire development to be considered SSD.

#### 3.3.2 Permissibility

24. The Site is zoned SP2 Infrastructure (Educational Establishment) under the *Ku-ring-gai Local Environmental Plan 2015* (KLEP 2015), and Educational Establishments are permissible with consent with the zone (AR para 4.3.1).
25. The ELC is ancillary to the use of the Site as an educational establishment and is permissible within the zone (AR para 4.3.2).
26. The Commission considers the proposed development to be permissible with consent.

### 3.4 Mandatory Considerations

27. 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 listed matters as are of relevance to the development the subject of the Application (**Mandatory Considerations**). The mandatory considerations are not an exhaustive statement of the matters the Commission is permitted to consider in determining the Application. To the extent that any of the Material does not fall within the mandatory considerations, the Commission has considered that Material where it is permitted to do so, having regard to the subject matter, scope and objects of the EP&A Act.



**Table 4 – Mandatory Considerations**

<b>Mandatory Considerations</b>	<b>Commission’s Comments</b>
<b>Relevant EPIs</b>	<p>Appendix B of the Department’s AR identifies relevant EPIs for consideration. The key EPIs, as applicable at the time of lodgement, include:</p> <ul style="list-style-type: none"> <li>• SRD SEPP;</li> <li>• Planning Systems SEPP;</li> <li>• <i>State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (Education SEPP)</i>;</li> <li>• <i>State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)</i>;</li> <li>• <i>State Environmental Planning Policy No. 64 – Advertising and Signage (SEPP 64)</i>; and</li> <li>• KLEP 2015.</li> </ul> <p>The Commission has considered the Department’s assessment against the relevant EPIs and is of the view the Project is capable of complying with the required mitigation measures to achieve consistency.</p>
<b>Relevant proposed EPIs</b>	<ul style="list-style-type: none"> <li>• <i>Draft Remediation of Land State Environmental Planning Policy (Remediation SEPP)</i>; and</li> <li>• <i>Draft State Environmental Planning Policy (Environment)</i>.</li> </ul> <p>The Commission has considered the Department’s assessment against the relevant proposed EPIs and is of the view the Project is capable of complying with the required mitigation measures to achieve consistency.</p>
<b>Relevant Development Control Plans (DCP)</b>	<p>Clause 2.10 of the Planning Systems SEPP states that development control plans do not apply to SSD.</p> <p>Nevertheless, the Department has given consideration to the relevant DCP in section 6 of the AR.</p> <p>The Commission has considered the Department’s assessment against the relevant DCP as part of its consideration of the project, however notes that DCPs do not apply to SSD.</p>
<b>Likely Impacts of the Development</b>	<p>The likely impacts of the Application have been considered in section 5 of this Statement of Reasons.</p>
<b>Suitability of the Site for Development</b>	<p>The Commission has considered the suitability of the Site. The Commission finds that the Site is suitable for the purposes of redevelopment of an existing school for the following reasons:</p> <ul style="list-style-type: none"> <li>• the Site is located on land zoned SP2 Infrastructure (Educational Establishment) and the Application is permissible with consent under KLEP 2015, the Education SEPP, the SRD SEPP and the Planning Systems SEPP;</li> <li>• the Site includes an existing school;</li> <li>• the Application complies with the strategic planning directions of State and local planning policies;</li> </ul>

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- the Application is an orderly and economic use of the Site and is consistent with the Masterplan for the Site (AR Table 3). The Project will provide new school infrastructure and replace aging school infrastructure that is no longer fit-for-purpose; and
  - impacts on surrounding land uses have been minimised where possible and are capable of being further mitigated through conditions of consent, in particular the deferred commencement condition which is intended to address amenity impacts to the most affected surrounding land uses.
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### **Objects of the EP&A Act**

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 3 of the AR, which finds that the Application is consistent with those Objects.

The Commission finds the Application has been assessed in accordance with relevant EPIs and is capable of complying with the required mitigation measures to achieve consistency with the Objects of the EP&A Act.

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### **Ecologically Sustainable Development**

The Commission has given consideration to the principles of ESD in its assessment, as set out below.

#### ***a) the precautionary principle***

The Commission finds that the precautionary principle has been appropriately applied through the application of mitigation and management measures set out in the Application, the Department's AR and the recommended conditions of consent. The Commission has proposed additional measures as set out in this Statement of Reasons to further mitigate Project impacts.

#### ***b) inter-generational equity***

The Commission is of the view that on balance, the Project will deliver improved facilities for education infrastructure, including an ELC, and would benefit both current and future generations.

#### ***c) conservation of biological diversity and ecological integrity***

The Commission notes that the Project involves the removal of 29 trees to allow for the construction of new buildings. New tree planting includes 37 new trees on Site as part of the Applicant's landscape scheme. The Commission is of the view that the Project has been designed to avoid, mitigate and manage biodiversity impacts where practicable.

#### ***d) improved valuation, pricing and incentive mechanisms***

The Commission finds that on balance and when weighed against the impacts, the Project could generate net positive social and economic benefits (subject to additional measures as set out in this Statement of Reasons), through the provision of improved educational infrastructure, and new construction and operational jobs.

In summary, the Commission finds that the Project is consistent with ESD, because the Project, for the reasons set above, could achieve an appropriate balance between relevant environmental, economic and social considerations.

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### **The Public Interest**

The Commission has considered whether the granting of consent to the Application is in the public interest. In doing so, the Commission has considered the predicted benefits of the Application and its predicted negative impacts.

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The Commission finds that the Application will provide for contemporary teaching facilities and learning facilities at an existing school that are fit-for-purpose and will benefit both primary and secondary school students. The proposed facilities would improve educational outcomes while minimising impacts to existing school operations.

The Project would economically serve the community through jobs and infrastructure investment. The project would generate 180 construction jobs and 20 new operational jobs for the local area.

The Commission finds that on balance, and when weighed against the Objects of the EP&A Act, the principles of ESD and the benefits of the Application, the impacts of the Application can be managed and appropriately mitigated through the requirements of conditions of consent imposed by the Commission.

For the reasons above, the Commission finds the Application to be in the public interest.

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### 3.5 Additional Considerations

28. In determining the Application, the Commission has also considered:

- NSW Premier's Priority for high quality education;
- Greater Sydney Regional Plan – A Metropolis of Three Cities, 2018;
- North District Plan, 2018;
- NSW Future Transport Strategy 2056;
- State Infrastructure Strategy 2018-2038 – Building the Momentum;
- Educational Facilities Standards and Guidelines (NSW Department of Education);
- Greener Places, 2020 (Government Architect NSW);
- Better Placed, 2017 (Government Architect NSW);
- Interim Construction Noise Guideline;
- Noise Policy for Industry;
- Healthy Urban Development Checklist (NSW Health);
- Crime Prevention Through Environmental Design (CPTED) Principles; and
- Ku-ring-gai Local Strategic Planning Statement 2016-2036.

## 4. Community Participation & Public Submissions

### 4.1 Community Stakeholder Meetings

29. Due to limited registrations for the Public Meeting scheduled for 12 September 2022, the Commission cancelled the Public Meeting. Instead, the Commission met separately with four interested individuals/groups who had registered to speak at the Public Meeting to hear their views. The Community Stakeholder Meetings were held electronically on 12 September 2022 with the four community members presenting to the Commission via video conference. The Commission notes that a family member of two registered speakers also spoke at the Community Stakeholder Meeting, and therefore a total of five community members participated.

30. Presentations made at the Community Stakeholders Meetings have been considered by the Commission as submissions and are referenced below in section 5.

## 4.2 Public Submissions

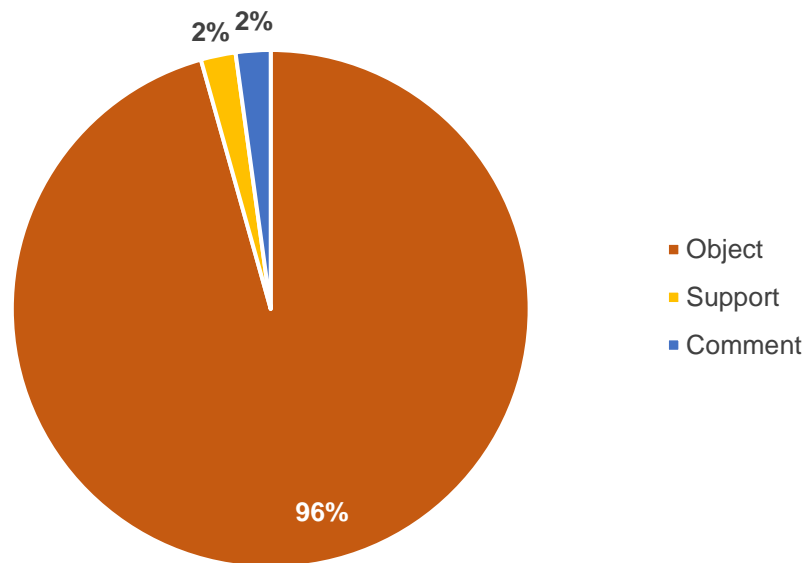
- 31. As part of the Commission’s consideration of the Project, all persons were offered the opportunity to make written submissions to the Commission until 5pm on 19 September 2022 (**First Submission Period**).
- 32. The Commission received a total of 47 written submissions (including one late submission that was received and accepted by the Commission Panel) on the Application during the First Submission Period. The submissions made to the Commission comprised:
  - 1 submission in support of the Application;
  - 45 submissions objecting to the Application; and
  - 1 comment (neither in support nor objecting to the Application).
- 33. The Commission received Additional Material from a member of the community on 7 November 2022. In response to the Commission’s request dated 16 September 2022, the Department provided Additional Material on 18 November 2022. The Additional Material was published on the Commission’s website and public comment was open from 18 November 2022 to 12pm 25 November 2022 (**Second Submission Period**).
- 34. The Commission received a further 5 submissions on the Additional Material during the Second Submission Period.

### 4.2.1 Topic Analysis

#### *First Submission Period*

- 35. **Figure 5** provides an overview of submissions received by the Commission during the First Submission Period. The Commission observes that 96% of submissions received by the Commission were in objection to the Application, while 2% of submissions were in support of the Application. The remaining 2% provided comment on the Application.

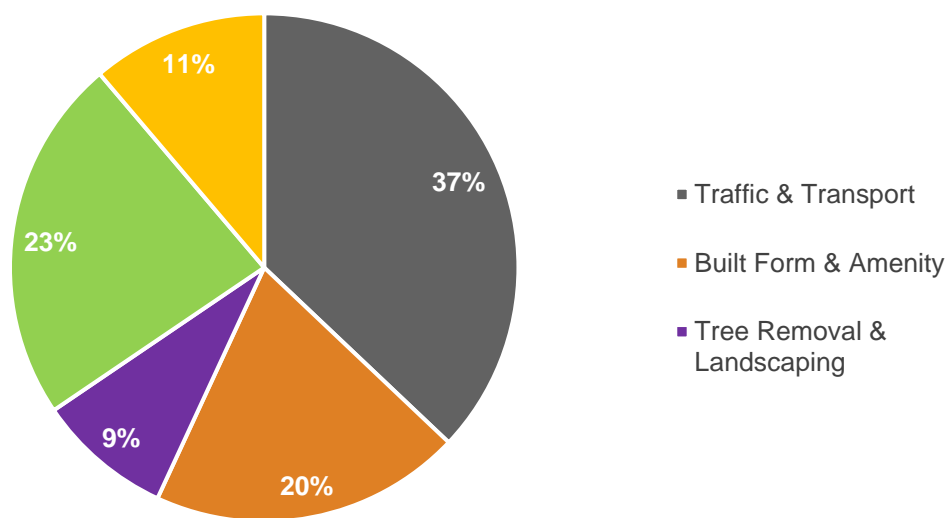
*Figure 5 – Overview of Submissions Received by the Commission*





36. Key themes raised in submissions are illustrated in **Figure 6**, which provides a thematic breakdown of submissions received by the Commission. The Commission observes that most submissions relate to four key topics, namely traffic and transport (37%), student numbers (23%), built form and amenity (20%), and tree removal and landscaping (9%).

**Figure 6** – Thematic Analysis of Submissions Received by the Commission



### *Second Submission Period*

37. A total of 5 submissions were received during the Second Submission Period in response to the Department's Additional Material received by the Commission on 18 November 2022. The key themes raised in the submissions primarily related to built form and amenity impacts to adjoining residences.

### **4.2.2 Key Issues – First and Second Submission Periods**

38. Key issues raised in written submissions to the Commission and at the Community Stakeholders Meeting related to:
- building height, bulk and scale;
  - amenity impacts, including visual impacts, overshadowing and visual privacy;
  - social impacts;
  - traffic and parking impacts, including traffic impacts at drop-off and pick-up locations and construction traffic impacts;
  - noise and vibration, including construction and operational noise;
  - student numbers;
  - heritage;
  - tree removal, landscaping and biodiversity; and
  - need for the development; and
  - site location.

39. The Commission notes that the key issues identified above are not an exhaustive list of the issues raised in submissions considered by the Commission. Rather, they are reflective and illustrative of what the Commission regards as the key issues that emerged from the submissions.

## 5. Key Issues

### 5.1 Built Form

#### 5.1.1 Building Height, Bulk and Scale

40. The Project will be up to five storeys, with a maximum building height of 20.6 metres. Due to the topography of the Site, the building would appear as three, four, and five-storeys from different angles (AR para 6.3.14).
41. The Applicant's RtS Design Report Addendum (page 26) indicate a minimum building setback from the south-eastern boundary of 11.5 metres for the lower two levels, and 19.2 metres for the upper three levels.
42. The Commission received written submissions objecting to the Project and heard the community's views during the Community Stakeholder Meetings. Submissions raised concern about the Project's height and overall bulk and scale. Submissions were particularly concerned about the Project's impact on the surrounding lower density residential area. Submissions raised concerns about the Project's consistency with the Design Quality Principles under the Education SEPP, including Principle 1 (context, built form and landscape), Principle 5 (amenity) and Principle 7 (aesthetics). One submission raised concern about the Department's comparison of the Project's height, bulk and scale to the residential flat building developments along Avon Road rather than comparing it to the low density dwellings located along Pymble Avenue and adjacent to the Site.
43. Council objected to the Project in its submission to the EIS, dated 6 December 2021. Council raised concerns about elements of the Project's built form and stated that the Project is "excessive in height and scale" and because it is adjacent to low-density residential development, the built form "should better relate to the context and be designed to avoid overshadowing by appropriate stepping of the building form and additional side setbacks at the upper levels" (page 3). Council's submission also stated that the Project does not achieve the Education SEPP's Design Quality Principles 1, 5 and 7.
44. On 4 May 2022, the Applicant provided an RtS which amended the design of the Project in response to submissions received during the Department's exhibition period about the Project's height, bulk and scale. The RtS amended the design of the Project to include:
- a reduction of the gross floor area (**GFA**) of Level 4 by 56.38m<sup>2</sup>;
  - additional façade modulation and horizontal articulation;
  - reduction of windows on the southern elevation;
  - materials changes for the upper levels; and
  - other design amendments (AR para 5.4.3).
45. The Applicant states that "the revised design is considered to be compatible with the surrounding context and will provide a high quality built form" (RtS, page 14).

46. The Applicant states that the design, as modified by the RtS, meets the Education SEPP Design Principles, including Principles 1, 5 and 7 (AR para 6.3.12).
47. Council maintained its objection to the proposal following lodgement of the RtS and raised further concerns regarding the bulk and scale of the Project (AR, page vi).
48. The Applicant submitted two further SRtS reports to address the concerns of Council and other agencies. However following submission of the SRtSs, Council reiterated its concerns regarding the amenity impacts of the Project's built form (AR, page vii).
49. At AR para 6.3.23, the Department states:  
The Department acknowledges that the proposed GHP building is five storeys, which is not a similar scale to the adjoining dwellings along Pymble Avenue. However, the Department also notes that the site is not located in a low-density area in its entirety. The site adjoins the existing buildings within the PLC campus, which are of a much larger scale. Five storey residential flat buildings are located on Avon Road, near the PLC campus. The height and scale of the GHP building is consistent with other existing buildings within the campus and the medium-density residential flat buildings.
50. The Department notes that the Applicant consulted with the State Design Review Panel (**SDRP**) on several occasions, including prior to lodgement of the Application and following exhibition of the EIS. The SDRP made comments about the scale of the podium of the building, among other matters (AR para 6.3.9).
51. To address the SDRP comments, the Department considers that the Applicant "made reasonable attempts to include a two-storey building podium with recessed upper levels, to tone down the visual bulk, as perceived from the adjoining low-density areas" (AR para 6.3.27).
52. The Department has considered the built form issues raised in submissions received during exhibition, and is of the view that the building height, bulk and scale is not unreasonable. The Department is also satisfied that the Project is consistent with the Education SEPP's Design Quality Principles 1, 5 and 7 (para 6.3.28).
53. During its meeting with the Commission on 1 September 2022, the Department stated that "the proposed bulk and scale is acceptable, subject to mitigation requirements" (Transcript, page 9).
54. During its meeting with the Commission on 9 September 2022, Council reiterated its objection to the Project. Council stated that the concerns it raised in its submissions to the EIS remained (Transcript, page 3). Council commented that "the development itself is required for the needs of the students and that's what's driving the outcome of the development, not necessarily those impacts that are associated with the development" (Transcript, page 4).
55. The Department in their additional material received by the Commission on 18 November 2022, "concur with the SDRP's conclusions and [GANSW]'s comments and considers that given the large setback, the building would be provided with a reasonable transition to the adjoining low-density developments".

### *Commission's Findings*

56. The Commission notes that there is no specific maximum building height or FSR controls under KLEP 2015 applicable to the Site. Further, the Commission notes that clause 2.10 of the Planning Systems SEPP states that DCPs do not apply to SSD. Therefore, the setback and built form controls of the Ku-ring-gai DCP are not applicable to the Project.

57. The Commission does not agree with the Department's consideration of the residential flat buildings located on Avon Road as being within the Project's surrounding context.
58. The Commission notes the Project is adjacent to a low-density residential area along Pymble Avenue, though notes the Project is located within an existing school campus where existing buildings are of a comparative bulk and scale. The Commission considers the Project's height, bulk and scale to be generally consistent with these existing buildings within the school campus. The Commission also considers the Project to be consistent with the intent of the Site's SP2 Infrastructure (Educational Establishment) land zoning under KLEP 2015.
59. The Commission notes, that although the Site is in close proximity to the neighbouring low-density residential area, the Project does not have a direct frontage onto Pymble Avenue which is characterised by detached one and two storey dwellings.
60. For the reasons set out above, the Commission does not consider the Project's building height, bulk and scale to be inherently incompatible with the existing school campus and the surrounding context. The Commission is, however, concerned about the Project's built form impacts on the adjacent properties specifically located at 57A and 59B Pymble Avenue. These built form impacts to these adjoining properties, including amenity impacts and social impacts, are discussed in sections 5.2 and 5.3 of this report.
61. The Commission has considered the Project's consistency with the Education SEPP's Design Quality Principles, particularly in relation to Principle 1 (context, built form and landscape), Principle 5 (amenity) and Principle 7 (aesthetics). The Commission is of the view that:
- the advice and recommendations provided by the SDRP have been reasonably considered and addressed by the Applicant.
  - though there are concerns related to the Project's proximity and relationship with the adjoining low density residential area, the Project is capable of being consistent with the Education SEPP's Design Quality Principles, subject to the conditions discussed in paragraph 62.

## 5.2 Amenity

### 5.2.1 Visual Impact

62. Submissions received by the Commission raised concern about the compounded impact of the Project's proximity to the south-eastern boundary of the Site and the existing topography. Submissions noted that the Project would appear as a six-storey building from adjoining residences due to the site's topography, resulting in unreasonable visual bulk and a feeling of enclosure from principal living and outdoor spaces.
63. The Applicant's EIS was accompanied by a Visual Impact Assessment Report (**VIA**) prepared by Geoscapes, dated 11 August 2021.
64. The VIA included photomontages and visual impact analysis of views from 53, 57, 57A and 59B Pymble Avenue, as well as from the street in front of 57 Pymble Avenue. It concluded that the Project will not be highly visible from Pymble Avenue, and that the dwellings at 57A and 59B Pymble Avenue will experience a 'high/moderate' visual impact, while other dwellings along Pymble Avenue would experience a 'moderate/minor' to 'moderate' impact.



65. Submissions in objection to the Project questioned the accuracy and reliability of the VIA. They also questioned the landscaping and tree planting strategy proposed to mitigate the visual impact of the Project.
66. The Commission notes that outlooks from indoor living and outdoor spaces at properties located at 53, 57A and 59B Pymble Avenue are most visually impacted by the Project.
67. The RtS amended the design of the Project in response to comments and objections received during the Department's exhibition period, including a setback to the north-western side of level 4, façade articulation, increased scallop depth to the atrium, and other design amendments.
68. The RtS included an addendum to the VIA prepared by Geoscapes, which included photomontages of the proposal from Pymble Avenue, both with and without the proposed landscape screening. The RtS concludes that the revised design does not have any impacts on any significant views and considers the Project to be largely compatible with the Pymble Avenue streetscape.
69. During its meeting with the Commission, Council maintained its objection to the Project, and reiterated its response to the EIS and RtS that additional setbacks should be added at upper levels to reduce the visual impact of the Project on adjoining residents.
70. At AR para 6.3.27, the Department states that it considered the VIA, notes the issues raised in submissions received during exhibition and is of the view that the visual impact to the adjoining dwellings is not unreasonable as, among other reasons:
- *the building would not be highly visible, other than as viewed from Pymble Avenue. The overall spatial character of the PLC campus and the existing buildings would be retained.*
  - *the proposed landscape screening once fully grown, would ensure visual screening of the building bulk as viewed from Pymble Avenue residences. While the growth of vegetation would take time, it would be a positive outcome for the site and the locality.*
  - *the Applicant has consulted with the SDRP and made reasonable attempts to include a two-storey building podium with recessed upper levels, to tone down the visual bulk, as perceived from the adjoining low-density areas.*
  - *the five storey-built form has been stepped in accordance with the natural topography of the land, and recessed into the slope, which has effectively reduced the visual scale of the development, where possible.*
71. In a letter to the Department dated 16 September 2022, the Commission requested the Department undertake additional assessment with regard to the visual, privacy and social impacts of the Project on the adjacent residences.
72. On 18 November 2022, the Department responded to the Commission's request. The Department provided:
- additional photomontages from specific locations within the properties at 53, 57A and 59B Pymble Avenue; and
  - further assessment of the visual impacts on these properties, with consideration to the additional photomontages.

Additional detailed sections illustrating the detail of the south-eastern setback between the proposed building and dwellings at 57A and 59B Pymble Avenue, including vegetation, level changes and maintenance access road, were also provided in the Department's response.

73. With regard to the visual impacts of the Project on the adjoining properties, the Department concluded that its assessment has not been altered in light of the additional photomontages.
74. In November 2022, the Commission received and accepted additional information from an adjoining landowner which included photomontages illustrating the view of the Project from the rear of 59B Pymble Avenue.
75. As discussed in section 4.2, the Commission sought public comments on the additional information received from the Department and the adjoining landowner.

### *Commission's findings*

76. The Commission notes that both the Department and the landowner of 59B Pymble Avenue engaged independent consultants to prepare photomontages of the Project. The Commission has considered both sets of photomontages.
77. The Commission notes that the Department has indicated the photomontages prepared by their independent consultant have been prepared in accordance with the requirements of the NSW Land and Environment Court's adopted policy for photomontages. The Commission is satisfied they appropriately represent the scale of the proposed development. Regarding the photomontages prepared by the landowner of 59B Pymble Avenue, the Commission notes that no references to the NSW Land and Environment Court's adopted policy for photomontages have been made.
78. The Commission notes that the Site's topography and proximity of the Project to the south-eastern boundary of the Site emphasises the visual impact that will be experienced by the adjoining residential area. As illustrated in the sections prepared by the Department (as discussed in paragraph 72), the Site is located on ground that is higher than the adjoining dwellings located at 57A and 59B Pymble Avenue. The Commission is concerned that the topography exacerbates the five storey presentation of the Project from the adjacent properties.
79. The Commission disagrees with the Applicant that the properties at 57A and 59B Pymble Avenue will experience a 'high/moderate' visual impact. In applying the visual receptor sensitivity criteria adopted by the Applicant's VIA, the Commission considers the Project to have:
- 'very high' visual receptor sensitivity, due to 'views from the main living space of residential properties' being impacted – this includes the indoor and outdoor living areas of 57A and 59B Pymble Avenue.
  - 'very high' visual receptor magnitude of change, due to substantial changes to both the vertical and horizontal extent of views from the indoor and outdoor living areas of 57A and 59B Pymble Avenue, when compared to baseline.
80. Consequently, the Commission considers this results in 'substantial' visual impact to both 57A and 59B Pymble Avenue.
81. The Commission notes that tree planting and landscaping is proposed within the south-eastern setback to alleviate the visual impact to the adjoining properties. The Commission further notes that planted trees will grow and mature over time to reach their maximum height. The Commission, however, considers the proposed tree planting and landscaping strategy to be insufficient to effectively screen the Project from the adjacent residences at 57A and 59B Pymble Avenue due to:

- Insufficient setback – the proposed south-eastern setback has a width of between 11.5 metres to 12 metres (AR 6.3.32) which is not considered adequate to facilitate landscaping and tree planting that can effectively mitigate the proposal's visual impact to 57A and 59B Pymble Avenue.
- Inadequate planter buffer area – based on the Department's detailed sections discussed in paragraph 78, planter areas within the south-eastern setback are approximately 1.9 metres to 2.6 metres which the Commission does not consider to be sufficient to support the growth of mature trees. The Commission also notes that the limited width of the planter buffer area confines tree planting to a single row within the setback, reducing the opportunity for effective understory vegetation and further reducing the ability to provide a denser vegetation buffer.

Landscaping and tree planting are also covered in section 5.6.2 of this report.

82. For the reasons set out above and to effectively mitigate the visual impacts to the adjacent properties at 57A and 59B Pymble Avenue, the Commission has imposed deferred commencement conditions requiring the Applicant to either:
- **Include an additional minimum 5 metre setback from the south-eastern boundary** – this would require the Applicant to undertake design amendments to the Project and submit amended landscape plans to include a planting buffer area with a minimum width of 8 metres capable of facilitating moderately dense tree planting, minimum tree heights of 5 metres at planting, and deep soil with a minimum depth of 900 millimetres, to the satisfaction of the consent authority; or
  - **Purchase or lease the properties located at 57A and 59B Pymble Avenue;** or
  - **Use its best endeavours to enter into written agreements with landowners of the properties located at 57A and 59B Pymble Avenue** – the Applicant would be required to enter into an agreement with the adjoining landowners that confirms that the resident's concerns with visual, overshadowing and privacy have been appropriately mitigated.

### 5.2.2 Overshadowing

83. The Department's AR notes at paragraph 6.3.41 that the shadow diagrams as modified by the RtS show shadow impacts to the adjoining residential properties at 57A and 59B Pymble Avenue on 21 June between 9am and 3pm. The Department states that for 57A Pymble Avenue, the windows located on the dwelling's rear façade would experience overshadowing from 1:30pm on 21 June. For 59B Pymble Avenue, the Department states that part of the property's open space will experience overshadowing from 1pm on 21 June, with more than 50% of this open space being affected by the Project's shadows by 2pm.
84. The Applicant's RtS (page 14) states that it considers that the dwellings at 57A and 59B Pymble Avenue would still receive ample solar access and that the Project would not have undue overshadowing and solar access impacts to these properties.
85. At AR para 6.3.54, the Department states that north-west facing windows of the adjoining residential properties would receive a minimum of 4 hours of sunlight, and therefore comply with the KDCP requirements. The Department states at para 6.3.44 that the rear private open spaces at 59B Pymble Avenue would receive at least 4 hours of sunlight.
86. The Department considers that the proposed building has appropriate setbacks from adjoining residential properties, provides adequate sunlight to habitable rooms of those dwellings, and has an acceptable outcome regarding overshadowing despite the Project's 5 storey building height.

87. Council's submission to the Department raised concern that overshadowing to these adjoining properties does not comply with Part 4 of the KDCP, which sets minimum solar access requirements for dwelling houses and their private open spaces, being at least 4 hours solar access between 9am and 3pm on 21 June.
88. The Commission received additional information from an adjoining landowner which included shadow diagrams illustrating solar impact to the adjoining property at 59B Pymble Avenue. The adjoining landowner reinforced their concerns in relation to the Project's overshadowing impact.
89. The Department in their additional material received by the Commission on 18 November 2022, provided:
- Shadow diagrams prepared by an independent consultant, including a peer review of the shadow diagrams prepared by the Applicant; and
  - An assessment of the accuracy of the shadow diagrams prepared by the Applicant, particularly in relation to the overshadowing impacts to 57A and 59B Pymble Avenue.
90. The Department concluded that the Applicant's shadow diagrams were generally consistent with those prepared by the independent consultant, and that no further comment would be provided in this regard. The Department noted that although the development would result in increased overshadowing to the adjoining properties, *'it is compliant with the requirements of Kuring-Gai Development Control Plan and the principles of the Land and Environment Court that stipulate acceptable solar access to the adjoining neighbouring properties during winter solstice, between 9am and 3pm, to be 3 hours'*.

### *Commission's findings*

91. The Commission acknowledges that overshadowing impacts to the properties at 57A and 59B Pymble Avenue were key concerns raised by the adjoining landowners. Submissions received during the public exhibition period noted that rear living areas and private open spaces of 57A and 59B Pymble Avenue would cease to receive full solar access from 1:30pm on 21 June. The Commission notes the concerns relating to the Project's impact on the amenity of the private internal and external living spaces at these dwellings, along with concerns related to shadows cast by proposed trees within the site's rear setback.
92. The Commission notes that pursuant to clause 2.10 of the Planning Systems SEPP, the solar access controls under the Ku-ring-gai DCP do not apply to the Project.
93. Although the Commission finds that the Project does significantly impact solar access to the private open spaces of 57A and 59B Pymble Avenue from approximately 1pm on 21 June, the Commission agrees with the Department that these properties would maintain at least 3 hours of solar access on 21 June.
94. Noting the additional overshadowing that will be experienced by these adjoining properties, the Commission has imposed deferred commencement conditions to mitigate these impacts, requiring the Applicant to either:
- ***Include an additional minimum 5 metre setback from the south-eastern boundary*** – shifting the proposed building away from the south-eastern boundary will provide an opportunity to reduce overshadowing to the adjoining properties.
  - ***Purchase or lease the properties located at 57A and 59B Pymble Avenue;*** or

- **Enter into written agreements with landowners of the properties located at 57A and 59B Pymble Avenue** – the Applicant would be required to enter into an agreement with the adjoining landowners that confirms that the resident’s concerns with overshadowing have been appropriately mitigated.

95. The Commission notes that any trees planted within the south-eastern setback at mature height will potentially create some additional overshadowing. However, the Commission considers shadows cast by trees would not unacceptably contribute to additional overshadowing given that trees will not create a uniform shadow that would be cast by a building.

### 5.2.3 Visual Privacy

96. The Applicant’s RtS Design Report Addendum (page 26) refers to illustrative sections that indicate a minimum building setback from the south-eastern boundary of 11.5m for the lower two levels, and 19.2m for the upper three levels.
97. The Applicant’s RtS refers to the Apartment Design Guide (ADG), noting that a building separation of 21m is recommended between habitable rooms/balconies for 5-8 storey residential flat buildings at zoning interfaces with low density dwellings. The RtS states that these conditions are only recommended to ensure best outcomes in terms of visual privacy and sunlight, and that the largest current setback of 19.5m is only 1.5m less than the largest recommended setback under the ADG (21m).
98. The RtS (page 14) also states that given the Site’s topography and the location of the adjoining residential dwellings being located below the Project’s ground level, direct views into the adjoining dwellings’ windows or private open spaces would be extremely difficult.
99. The Department agrees with the Applicant that the Project has been adequately setback from the adjoining properties at 57A and 59B Pymble Avenue to minimise overlooking their private open spaces and habitable windows. The Department’s AR notes that the reduction of the number of picture windows through the RtS process, horizontal shading elements, and the allocation of clinical health spaces on the upper floors, further reduces overlooking opportunities to neighbouring properties.
100. The Department, however, expressed concerns over the potential overlooking impacts from the Project’s Level 2 and 3 classrooms and the ELC external play area located on Level 2, noting that the private open spaces and upper-level windows of adjacent dwellings at 57A and 59B Pymble Avenue may be subject to overlooking. Conditions of consent have been recommended by the Department to address these concerns, requiring obscure glass to windows on Level 2 and 3 classrooms along the southern elevation, and a 1.8m high balustrade with obscure privacy glass along the southern elevation of the ELC external play area.
101. The Commission received submissions from the adjoining residents at 57A and 59B Pymble Avenue that noted concerns of visual privacy impacts to their private open spaces and internal living areas:
- Windows located along the south-eastern elevation not subject to the Department’s recommended condition for obscure glass could still potentially create overlooking issues to adjacent dwellings.
  - Upper levels of the Project will have unobstructed views down to the adjoining properties.
  - Setbacks proposed are insufficient.



### *Commission's Findings*

102. The Commission notes that the ADG only applies to development for the purpose of a residential flat building, shop top housing or mixed-use development with a residential accommodation use. As the Project does not contain any of these uses, the Commission does not consider the ADG applicable.
103. The Commission agrees with the Department's concerns over the potential overlooking impacts from the Project's Level 2 and 3 classrooms and the ELC external play located on Level 2. The Commission has adopted the Department's recommended conditions to mitigate overlooking impacts from these specific areas.
104. The Commission notes the privacy impacts raised by the adjoining residents at 57A and 59B Pymble Avenue, particularly in relation to the proposed setback from the south-eastern boundary and overlooking from the remainder of the windows facing these properties.
105. In response to these concerns, and to further mitigate the privacy impacts to the adjacent properties at 57A and 59B Pymble Avenue, the Commission has imposed deferred commencement conditions requiring the Applicant to either:
- ***Include an additional minimum 5 metre setback from the south-eastern boundary*** – this would require the Applicant to undertake design amendments to the Project and submit amended landscape plans to include a planting buffer area as described in paragraph 82. A substantial planting buffer area would be required to allow for denser tree planting within the south-eastern setback and provide sufficient screening of Project to further reduce overlooking opportunities to 57A and 59B Pymble Avenue; or
  - ***Purchase or lease the properties located at 57A and 59B Pymble Avenue***; or
  - ***Enter into written agreements with landowners of the properties located at 57A and 59B Pymble Avenue*** – the Applicant would be required to enter into an agreement with the adjoining landowners that confirms that the resident's concerns with privacy have been appropriately mitigated.

## **5.3 Social Impacts**

106. The Applicant's EIS is accompanied by a Social Impact Assessment (SIA) dated August 2021 which aimed to identify potential positive and negative social impacts associated with the Project. The SIA states that the method set out in the *Draft Social Impact Assessment Guideline 2020* was adopted to assess changes to existing social conditions as a result of the Project, including direct, indirect and cumulative impacts. Individual impacts were evaluated against measures including likelihood of the impact occurring, the characteristics of the impact and the magnitude of the impact.
107. The SIA (page 23) suggests a number of mitigation measures to minimise negative impacts and maximise social benefits to the community during both construction and operation.
108. The Department agrees with the Applicant's SIA findings and notes their satisfaction that the Project would have positive social impacts as it would meet the education needs of the area (AR paragraph 6.5.1) The Department states that any short-term impacts during construction would be mitigated through a Construction Environmental Management Plan which has been recommended as a condition of consent (Conditions D16 to D22).
109. The Commission requested further assessment on social impact from the Department on 16 September 2022, including:

- Further assessment of how magnitude levels for predicted social impacts (for both construction and operation) have been determined regarding consideration of magnitude dimensions: extent, duration, severity or scale, intensity or importance and level of concern/interest.
- Further comment outlining how likelihood levels have been defined, specifically for impacts on adjacent neighbours, noting that proximal neighbourhood impacts have been defined as 'possible' and that wider community benefits have been defined as 'almost certain'.
- Assessment of any residual impacts on neighbours and how these will be managed outside of the standard mitigation strategies proposed.
- Further assessment of how the increased scale of structures on campus may impact upon surrounding resident's way of life, amenity and sense of privacy with respect to 59B, 57A and 53 Pymble Avenue.

110. The Department in their response to the Commission's request for further assessment on the Project's social impact notes that the impacts of the Project are acceptable, and their recommendation remains unchanged (page 11).

111. The Department, however, made the following comments:

- At page 8: *The Department considers that the key point in assessing the social impact is whether the marginal increase in noise or other impacts might exceed a 'tipping point' of people's resilience to those impacts. The SIA and the SIA Addendum conclude that standard mitigations will all but eliminate any social impacts resulting from the development, which is not fully supported by evidence-based analysis in the SIA or the SIA Addendum. Consequently, there is a potential that the overall social impact and the 'tipping point' or significance has been under assessed.*
- At page 10: *The Department agrees with the Commission that the construction and operation of the development would have impacts on the adjacent neighbours, especially located at 59, 57A and to a lesser extent 53 Pymble Avenue. The Department also notes that the SIA has not considered the social impacts of the development on these residents in detail. The Department considers that the likelihood of privacy, overshadowing and visual impacts of the proposed building on the above adjoining properties is 'likely' or 'almost certain' rather than the 'possible' concluded by the SIA. Cumulatively, these impacts would represent a significant change in the surroundings for the residents of the above properties, in terms of views, sense of open space, access to sunlight and privacy (i.e., being overlooked). These changes may well affect their way of life in terms of how they use their outdoor space, sense of place and the way people live on a day-to-day basis.*

### **Commission's Findings**

112. The Commission finds that the social impact rankings on proximal neighbours adopted in the Applicant's SIA have not been justified appropriately in relation to likelihood and magnitude characteristics and are considered to have been understated. Rankings have not explicitly detailed duration, severity/scale, intensity/importance and level of concern for each predicted social impact. The Commission considers the likelihood rankings adopted in the SIA have been downplayed in relation to proximal neighbour impacts (possible) and accentuated for wider community benefits (almost certain).

113. Further, the Commission notes that there has been no consideration of how residual impacts on neighbours will be managed outside of the standard mitigation strategies.

114. The Commission also considers that health and wellbeing impacts should be separated out for different stakeholder groups given that differing levels of impact are likely to be experienced.
115. The Commission notes that the culmination of amenity impacts as a result of visual impact, overshadowing and visual privacy contribute to the overall social impact, including way of life, health and wellbeing, to adjoining residential neighbours at 57A and 59B Pymble Avenue.
116. The Commission agrees with the Department's comments noted in paragraph 111 that the overall social impact to 57A and 59B Pymble Avenue has been under assessed and not considered in detail in the SIA, with the likelihood of privacy, overshadowing and visual impacts to these properties being understated.
117. For the reasons set out above and, the Commission has imposed deferred commencement conditions (as discussed in section 5.2) that address visual, overshadowing and privacy impacts to the adjacent properties at 57A and 59B Pymble Avenue.
118. The Commission has imposed additional conditions of consent to mitigate the social impacts of the Project, including the:
- Establishment of a Community Consultative Committee (CCC) prior to the commencement of construction and in accordance with the Department's *Community Consultative Committee Guideline: State Significant Projects (2019)*. The CCC is to exercise its functions before the commencement of construction and continue to do so throughout construction and operation of the proposed development or other timeframe agreed by the Planning Secretary.
  - Preparation and approval of a Community Communication Strategy to manage impacts on adjoining neighbours, and developed in consultation with these neighbours.
  - Prohibition of construction work activities on Saturdays, Sundays or public holidays unless a provision under Condition E10 applies.

## 5.4 Student Numbers

119. The Commission received concerns from the community about student numbers, in particular that student numbers aren't capped by any development consent, and therefore the school is able to progressively increase student numbers without consent. Several submissions requested the school population be capped.
120. The Applicant's EIS states that the Project would "*provide facilities to support the existing student population of the College and would not provide for an increase in student or staff numbers for Kindergarten to Year 12*". The Applicant also noted that the proposed ELC would accommodate a new pre-Kindergarten stream, with capacity for 90 children (EIS page 33). In response to concerns raised from the public regarding the impacts associated with an increase of student numbers on Site, the Applicant reiterated in the RtS that the Application is not proposing an increase in student or teacher numbers on Site, other than via the ELC provision (RtS, Appendix K2, page 4).
121. The Department in its assessment noted that the Project would not result in an increase in PLC student population and would only introduce 90 children in the new ELC (AR paragraph 6.2.9). The Department was satisfied that the GHP building would provide facilities to support the existing PLC students and staff members, rather than for increasing student numbers (AR Table 13).

122. The Department notes that the current student numbers in PLC are not capped at 2,259 by any development consent and that enrolments within the school have previously increased by small percentages on a yearly basis or at other intervals (AR paragraph 6.2.11). The Department has recommended condition B6(b) which states that should consent for this Application be granted, the consent does not approve an increase in student and/or staff numbers within PLC (apart from the new early learning centre facility). Condition B7 recommended by the Department states that the ELC must not enrol more than 90 children (aged 0 – 5 years) and 20 full time equivalent staff members.
123. A submission received from a community member included reference to a development consent for DA5680/98 granted by Ku-ring-gai Council in 1998 for the 'establishment of a preparatory school comprising of 9 classrooms and associated facilities at premises known as 20 Avon Road, Pymble'. The development consent includes a condition noting:
- *In order to preserve the amenity of the locality, the maximum number of students at Pymble Ladies College shall not exceed 2,200 without further approval from Council.*

### *Commission's Findings*

124. The Commission notes that the Application would not result in an increase in student numbers at the PLC campus and would only introduce 90 children as part of the new ELC. The Commission is of the view that the conditions recommended by the Department referenced in paragraph 122 above are appropriate in ensuring that student and/or staff numbers within PLC are not increased and that enrolment and staff numbers at the ELC are in accordance with the Application.

## **5.5 Traffic**

125. The Commission received concerns from the community about traffic congestion issues along Avon Road during morning drop off and afternoon pick up times, which result in parents informally using Grey House Walk at Pymble Avenue. The use of this area as an informal (unapproved) drop off and pick up zone results in illegal parking activity, blocking of driveways and 'u-turn' manoeuvres on a busy road.
126. The submissions received by the Commission also raised concerns that the traffic modelling is insufficient because it relies on old traffic counts and only models intersections, not the congestion that results from queues of vehicles waiting to enter the turnoff into PLC. The incremental intensification of the site over time exacerbates the traffic congestion issues.
127. Concerns were also raised about construction traffic (during the 21 month construction period), including safety issues with large construction vehicles accessing the site, and conflict between construction traffic and school traffic. Community members noted that, during the construction period, general construction vehicles will occupy the limited on-street parking availability from early morning and further exacerbate local street parking and traffic congestion for school traffic and commuters.
128. The Applicant's EIS contained a Transport Impact Assessment (**TIA**) dated 26 August 2021. In response to comments made by Council and in public submissions, the Applicant submitted an Amended TIA (**Amended TIA**), dated 16 February 2022.

### 5.5.1 Operational Traffic

129. The Applicant's Amended TIA states that the ELC is estimated to generate approximately 72 trips in the AM peak and 63 trips in the PM peak. The Amended TIA also notes that actual trips are expected to be less as "*many of the children enrolled in the ELC will have parents who are staff members at the College or have siblings already attending, and as such, will not contribute to generating additional trips*" (Amended TIA, pg 29). The Amended TIA undertook an assessment of intersection capacity and stated that the ELC is expected to add, at its peak, 25 trips to the Pacific Highway/Beechworth Road intersection and 63 trips to the Pacific Highway/Livingstone Avenue intersection. The Amended TIA noted: "*this is equivalent to approximately 1 trip every 2.5 minutes and 1 trip every minute for each intersection which is considered a minor increment in the overall traffic and will not have an adverse impact to the existing conditions along Pacific Highway*" (Amended TIA, pg 29). The Amended TIA concluded that based on these considerations, the Project's overall traffic impact is expected to be minor.
130. The Department noted that the Project would not result in an increase in PLC student population and would only introduce 90 children in the new ELC. The Department agreed with the Applicant that most ELC children would be enrolled siblings of students or children of PLC staff members and therefore, the overall traffic impacts would be less than that calculated as a worst-case scenario in the Amended TIA (AR para. 6.2.9 and 6.2.10).
131. The Department recommended conditions of consent requiring the Applicant to undertake a supplementary TIA in consultation with Council. Under Condition E3, the Applicant would be required to implement and report on traffic calming measures designed to offset impacts of increased spaces within the ELC. The Department stated that subject to the recommended implementation measures, the Application would not result in significant adverse impact on the local and wider traffic network.

#### *Commission's Findings*

132. The Commission acknowledges the concerns raised in public submissions regarding PLC's impacts on the surrounding traffic network. The Commission notes that the majority of these concerns are in relation to impacts as a result of the school's existing operations. The Commission also notes that concerns regarding traffic impacts from future increases in student numbers is outside the scope of this Application.
133. The Commission notes that the Application would not result in an increase in student numbers and would only introduce 90 children as part of the new ELC. The Commission acknowledges that children enrolled in the ELC may have siblings enrolled at PLC or have parents enrolled as PLC staff members and that predicted traffic impacts are capable of being less than the worst-case scenario predicted in the Amended TIA.
134. The Commission agrees with the Department that the Project would not have significant adverse impacts on the local and wider traffic network and these impacts are capable of being managed.

### 5.5.2 Parking, Pick-Up and Drop-Off

135. The Applicant's Amended TIA states that the ELC is the only component of the Project that will generate additional parking demand. The Amended TIA undertook an assessment of parking requirements based on the rates set out in the KDCP.



136. The Applicant will provide 37 parking spaces for the ELC to be used during drop-off and pick-up. Two boom gates will separate these parking spaces from the rest of the car park. Drop-off for the ELC is expected to be between 7:00-7:30am and pick-up will be between 6:00-6:30pm. The Applicant is proposing the shared use of spaces between the ELC and swim school noting that there is no clash of use and no impact on existing car spaces. The Amended TIA states that the parking provisions will adequately meet the requirements of the KDCP.
137. The Amended TIA states that it is expected that majority of parents dropping off and picking up their children from the ELC will opt to use the Centenary Car Park and proposes to encourage drop-off and pick-up to occur in the car park. The Applicant states that the ELC is not expected to have an adverse impact on the existing parking conditions along Pymble Avenue or other adjacent streets.
138. The Department agrees with the Applicant that no change is required to the existing on-site car parking facilities to cater for the proposed GHP building. The Department is of the view that the ELC peak drop-off and pick-up periods would not overlap with other uses within the campus including the learn to swim school and that this can be enforced by boom gates. The Department states that the provision of separate car parking for the ELC users in addition to the existing car parking within the Site is not considered necessary (AR para. 6.2.36).
139. The Department states that existing parking conditions are not conducive to allowing drop-off and pick-up or illegal parking operations on Pymble Avenue. The Department agrees with the Applicant that the majority of concerns in relation to illegal parking on street are related to ongoing school operations and unrelated to this Application.
140. Noting the above, the Department is satisfied that the proposed shared use of car spaces within the Site for the ELC is reasonable and feasible. To ensure effective operation of the campus in future and minimise adverse impacts on Pymble Avenue the Department has recommended a condition requiring implementation of an Operational Transport and Access Management Plan (**OTAMP**) for the entire campus.

### *Commission's Findings*

141. The Commission agrees with the Department that the proposed shared use of car spaces within the Site for the ELC is reasonable and feasible and the provision of separate car parking for the ELC users in addition to the existing car parking within the Site is not considered necessary. The Commission acknowledges the concerns raised in submissions regarding existing illegal parking on Pymble Avenue. The Commission notes that these concerns are related to existing operations and agrees with the Department that they are unrelated to this Application and are a matter of compliance.
142. The Commission is of the view that parking and drop-off and pick-up activities would not have a significant adverse impact on the local road network and are reasonably capable of being managed.

### 5.5.3 Construction Traffic

143. The Applicant's EIS contained a Preliminary Construction Traffic & Pedestrian Management Plan (**CTPMP**) dated 26 August 2021. Construction is proposed to occur in three stages over an 18 month period. It is anticipated that Grey House Walk will be closed to students, visitors and staff for the duration of the construction period. This is to ensure safety and divert pedestrian activity away from the construction site as much as possible. Grey House Walk will be provided as Site access for contractors which will allow PLC to separate student/visitor/staff pedestrian movements and contractor movements.
144. According to the CTPMP, vehicular access to the Site will occur via Avon Road and subsequently Everton Street and Livingstone Avenue prior to accessing Pacific Highway. The CTPMP also states that on-site parking will be provided for contractor and worker vehicles near the site office. The CTPMP states that construction works are not expected to have a significant impact on the on-street parking conditions.

#### *Commission's Findings*

145. The Commission notes that the Department, Council and Government agencies did not raise any concerns regarding construction traffic.
146. The Commission is of the view that impacts associated with construction traffic is reasonably capable of being managed through the implementation of conditions. The Commission notes that access to the Site via Grey House Walk should not be allowed during construction for contractors to further mitigate any construction traffic impacts on Pymble Avenue. A condition has been imposed by the Commission to close Grey House Walk during construction so no one, including construction workers, students, visitors and staff, can access the site from Pymble Avenue.

## 5.6 Other Issues

### 5.6.1 Biodiversity and Tree Removal

147. The Commission received submissions raising concerns with the proposed removal of 29 established and mature canopy trees.
148. The Applicant's EIS contained a Biodiversity Development Assessment Report (**BDAR**) dated 21 September 2021. In response to concerns raised by the Environment and Heritage Group (**EHG**) and Council, the Applicant submitted an Amended BDAR as part of the RtS. According to the Amended BDAR, a mix of 29 native and exotic trees are required to be removed to facilitate both the footprint and access requirements for the Project.
149. The Amended BDAR states that the Project will have an approximate impact area of 0.06 ha on Sydney Turpentine Ironbark Forest (STIF) which has been significantly altered and degraded from its natural state. The Amended BDAR states that the Project generates two ecosystem credits for the Site.
150. The Amended BDAR states that it is expected that the proposal will not cause a disruption to the lifecycle to the Large eared pied bat (*Chalinolobus dwyeri*) and that the species. The Project generates one species credit for the Large eared pied bat. The Amended BDAR states that it is unlikely Koalas would occur on Site due to the degraded nature of vegetation and habitat. According to the Amended BDAR, the Project is unlikely to have a significant impact on the Koala or areas of critical habitat for the species.

151. Based on the comments made by EHG, the Department accepted the Applicant's BDAR and is satisfied that and the proposal is unlikely to result in a significant impact on the biodiversity values of the locality, subject to implementation of the mitigation measures.
152. The Commission agrees with the Department and is of the view that impacts associated with biodiversity and tree removal are reasonably capable of being managed.

### 5.6.2 Landscaping

153. The Commission received submissions from the community raising concerns with the proposed replacement planting close to the adjoining residential boundary, on the basis that these trees will pose a maintenance hazard and overshadowing impact for those residents on maturity.
154. The Applicant's RtS notes that canopy trees are proposed to be planted within the south-eastern setback and would provide an effective landscaping screen between the proposed building and adjoining residential properties (AR paragraph 6.4.21).
155. The Department in their assessment note that the '*primary purpose of landscaping within the site is to minimise visual impact of the building and maintain the canopy cover along Pymble Avenue. The Department considers that the proposed landscaping has appropriately achieved this.*' (AR paragraph 6.4.5)
156. The Commission generally agrees with the Department that a key purpose of the proposed landscaping is to mitigate visual impact of the Project when viewed from 57A and 59B Pymble Avenue. The Project's visual impact to these adjoining properties and mitigation measures are discussed in section 5.2.1.
157. The Commission has imposed deferred commencement conditions requiring the Applicant to either purchase or lease 57A and 59B Pymble Avenue, enter into a written agreement with these landowners, or include an additional minimum 5 metre setback to the proposed building from the south-eastern boundary. Should the Applicant pursue the latter, an amended landscape plan is required to be prepared and include a planting buffer area with a minimum width of 8 metres capable of facilitating moderately dense tree planting minimum tree heights of 5 metres at planting, and deep soil with a minimum depth of 900 millimetres.
158. The Commission considers that shadows cast by trees would not unacceptably contribute to additional overshadowing given that trees will not create a uniform shadow that would be cast by a building.

### 5.6.3 Construction Noise and Vibration

159. The submissions received by the Commission raised concerns about the construction noise (volume and duration), noting that the Department's recommended conditions primarily relate to noise controls to reduce impacts on school operations. Therefore, there are no restrictions on construction works in the school holidays, impacting on surrounding residents. Surrounding residents requested controls for construction noise and vibration be imposed and be independently analysed during the construction period to ensure compliance.

160. The Applicant's EIS contained a Noise Impact Assessment (**NIA**) dated 11 October 2021. The NIA established construction noise management levels for the Site as perceived at noise sensitive receivers in accordance with the ICNG. According to the NIA, construction works have the potential to exceed the internal noise management level when working near a receiver. To manage these impacts, best practice noise mitigation measures including project and plant machinery specific measures are recommended. The NIA also recommended the use of acoustic enclosure/screening to reduce impacts. In relation to vibration, the NIA has recommended indicative safe distances for construction activities in order to maintain compliance with the human comfort vibration criteria.
161. The Commission agrees with the Department and is of the view that noise and vibration impacts are reasonably capable of being managed through the adoption of mitigation measures. The Commission has imposed conditions requiring construction noise levels to achieve the construction noise management levels detailed in *the Interim Construction Noise Guideline* (DECC, 2009). Additionally, vibration caused by construction is to be in accordance with relevant standards and guidelines and Conditions E19 to E21.
162. Given the proximity of the adjoining residential dwellings and likely noise sensitivities during construction, the Commission notes that no work should be carried out on Saturdays, Sundays or public holidays unless a provision under Condition E10 applies.

#### 5.6.4 Operational Noise

163. Members of the community raised concerns over operational noise in submissions. These concerns generally relate to the noise generated by the operation of the ELC and dance studios in proximity to residents.
164. The NIA established external noise level criteria for the surrounding residences in accordance with EPA's Noise Policy. According to the NIA, predicted noise levels during periods of the day when the outdoor play areas are being used simultaneously are likely to exceed the noise criteria. The NIA recommended mitigation measures including restrictions on the use of outdoor play areas and the inclusion of an acoustic barrier to the ELC level 2 external play area. The NIA stated: "*the resulting noise impact resulting from the use of the proposed external play areas will not result in an unacceptable or offensive noise levels on the residential receivers to the south of the site and is therefore considered to be acceptable*" (NIA pg 34). In relation to noise from internal areas, the NIA states that noise impacts from the use of the proposed teaching areas and dance studios within the project noise emissions will comply with the relevant noise emissions criteria. For the dance studios, the assessment of noise emissions was based on the external façade elements being closed (NIA pg 34 and 35).
165. The Department is satisfied that with restriction of the use of the ELC and all out-of-hours school activities, the proposal would not have an unreasonable impact on the surrounding low-density dwellings, subject to implementation of the recommendations of the NIA (AR page 78).
166. The Commission agrees with the Department above and is of the view that operational noise impacts are reasonably capable of being managed through the adoption of mitigation measures. To further mitigate potential operational noise impacts on adjoining properties, the Commission has imposed a condition requiring an Operational Management Plan to include additional noise mitigation measures including:

- ensuring that all external doors and windows of dance studios are closed when conducting dance activities with amplified music; and
- ensuring that all doors/windows of the building (in addition to the school hall) are closed beyond 7pm.

### 5.6.5 Aboriginal Cultural Heritage

167. The Applicant's EIS contained an Aboriginal Cultural Heritage Assessment Report (ACHAR) dated 13 August 2021. According to the ACHAR, no previously unrecorded Aboriginal sites or objects were identified within the study area during the site inspection. Consultation with Registered Aboriginal Parties established that there were no social/cultural, historical or aesthetic values associated with the study area. The ACHAR concluded that the Site has nil to low potential to retain intact archaeological deposits (ACHAR page 31).
168. The Commission agrees with the Department's assessment that the potential impacts on Aboriginal cultural heritage have been appropriately addressed in the ACHAR. The Commission is of the view that it would not result in significant impacts on Aboriginal cultural heritage (AR Table 13).

### 5.6.6 Historic Heritage

169. The Commission received submissions raising concerns about adverse heritage impacts imposed by the proposed development. These related particularly to the bulk and scale of the proposed building, in comparison to that in the HCA, and the resulting negative impacts on the HCA.
170. The Applicant's EIS contained a Heritage Impact Statement (**HIS**), dated 11 August 2021 and a HIS Addendum, dated 28 February 2022. The Applicant's HIS stated that the Site is not listed as an item of local heritage significance, however it is located in the vicinity of the Pymble Avenue Heritage Conservation Area (**HCA**) (item number C11) and three 'Dwelling Houses' identified in Schedule 5 of the KLEP. The Applicant's HIS concluded that the Project would have no adverse impacts on the HCA nor heritage items in the vicinity.
171. The Applicant's EIS also contained a Heritage Archaeological Assessment Report, dated 13 August 2021 which concluded that there is nil potential that significant archaeological remains are present within the Site.
172. The Department engaged GML Heritage to undertake a peer review of the HIS and public submissions (Heritage Peer Review). The Heritage Peer Review, dated 22 April 2022 was generally supportive of the findings in the Applicant's HIS. The Applicant's HIS Addendum provided further information to address comments raised in the Heritage Peer Review.
173. The Commission agrees with the Department's assessment and is of the view that the Project would not have an unacceptable impact on historic heritage on or within the vicinity of the Site (AR Table 13).

### 5.6.7 Options Analysis

174. The Department notes that the Applicant had undertaken an options analysis for the proposal and concludes that alternative locations within the PLC campus were explored but would require demolition of existing buildings in good condition (AR paragraph 6.3.24).



175. The Department provided further comment in their response (dated 18 November 2022, page 6) to the Commission's request for information, noting that the options analysis was generally informed by avoiding parts of the Site with biodiversity value, the precincts identified in PLC's Concept Masterplan, and avoiding demolition of existing buildings.
176. Submissions received by the Commission raised concern about the Project's location within the Site, its proximity to the neighbouring residential area, and outlined alternative locations for development within the PLC campus.
177. The Commission notes that the Applicant has considered alternative locations for the Project within the PLC campus and generally agrees with Department that the location proposed is suitable for the Project.

### 5.6.8 Development Contributions

178. The Applicant requested that the requirement to pay development contributions be waived. The Applicant in the meeting with the Commission requested that an exemption or reduction be granted due to the Project's public benefit. The Applicant noted that the public benefit included up to 58 ELC spaces, out of hours school care and that the dance studio would be open to the community.
179. The Department stated that under Ku-ring-gai section 94A Contributions Plan 2015, there are limited opportunities to consider merit-based cases for exemption. The Department stated that such exemptions may apply to developments that provide a direct community benefit including the provision of childcare services. The Department does not consider that the Project entirely provides a childcare service noting that the GHP building includes a substantial component of classrooms and learning facilities for the school, the ELC being a component of this building (AR paragraph 88).
180. The Commission agrees with the Department's assessment and is of the view that there is not sufficient justification for development contributions to be waived for this Project.

### 5.6.9 Consistency with Concept Plan

181. The Applicant lodged a notice to modify Concept Approval SSD-5314 to the Department on 3 August 2022. The notice outlines that the Project has a minor conflict with the building envelope of the Healthcare Centre approved as part of Stage 4 of the SSD-5314. To resolve this conflict, the Applicant seeks to resolve the inconsistency via this application (SSD-17424905), in accordance with section 4.17(1)(b) and (5) of the *Environmental Planning and Assessment Act 1979* and the *Environmental Assessment and Planning Regulation 2021 (EP&A Regulation)*.
182. The Department states that the Applicant had '*advised they no longer wish to pursue these two stages of SSD-5314 and instead now wish to deliver these facilities within the GHP building*' (AR paragraph 5.8.5).
183. The Department notes that SSD-17424905 is inconsistent with the conditions of the Development Consent SSD-5314 and considers that SSD-17424905 cannot be determined without modifying those conditions of Development Consent SSD-5314 (AR Table 13, page 89). The Department considers that the Applicant's notice to modify the conditions of SSD-5314 should be accepted by the Commission.

184. The Commission agrees with the Department and has included Condition B9 requiring the removal of the envelope for the Healthcare Centre and the deletion of any reference to Stage 4 in Development Consent SSD-5314.

## 6. The Commission's Findings and Determination

185. The views of the community were expressed through public submissions and comments received (as part of exhibition and as part of the Commission's determination process), as well as in presentations to the Commission at the Community Stakeholder Meetings. The Commission carefully considered all of these views in making its decision.
186. The Commission has carefully considered the Material before it as set out in section 3.1 of this report. Based on its consideration of the Material, the Commission has determined to grant deferred commencement consent to the Application, subject to conditions of consent for the following reasons:
- the Site is on land zoned SP2 Infrastructure (Educational Establishment) and the Project is permissible with consent under the KLEP 2015, Education SEPP and the SRD SEPP;
  - the Project complies with the strategic planning directions of State and Local planning policies;
  - the Project will deliver improved facilities for education infrastructure for the area for current and future generations;
  - the Project is an orderly and economic use of the Site;
  - amenity and social impacts to adjacent properties are capable of being further mitigated through conditions of consent;
  - the Project is in accordance with the Objects of the EP&A Act; and
  - the Project is in the public interest.
187. For the reasons set out in paragraph 186 above, the Commission has determined that the consent should be given subject to conditions. These conditions are designed to:
- prevent, minimise and/or offset adverse environmental impacts;
  - mitigate social and amenity impacts on the adjacent properties;
  - 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.
188. The reasons for this Decision are given in the Statement of Reasons for Decision dated 9 December 2022.



Adrian Pilton (Chair)  
Member of the Commission



Dr Sheridan Coakes  
Member of the Commission



Soo-Tee Cheong OAM  
Member of the Commission



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Independent Planning Commission

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