



New South Wales Government
Independent Planning Commission

Blue Gum Community School SSD 10444

Statement of Reasons for Decision

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State of New South Wales through the Independent Planning Commission 2021

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CONTENTS

EXECUTIVE SUMMARY	1
DEFINED TERMS	2
1 INTRODUCTION	3
2 THE APPLICATION	3
2.1 Site and Locality	3
2.2 The Project.....	5
2.3 Need and Strategic Context	5
3 COMMUNITY PARTICIPATION & PUBLIC SUBMISSIONS	6
3.1 Community Group Attendance at the Site Inspection	6
3.2 Public Meeting	6
3.3 Public Submissions.....	6
4 THE DEPARTMENT’S CONSIDERATION OF THE APPLICATION	10
5 THE COMMISSION’S CONSIDERATION	11
5.1 The Department’s Assessment Report	11
5.2 The Commission’s Meetings	11
5.3 Material considered by the Commission	11
6 STATUTORY Context	13
6.1 State Significant Development	13
6.2 Permissibility.....	13
6.3 Mandatory considerations	13
6.4 Additional Considerations.....	14
7 CONSIDERATION OF KEY IMPACTS	15
7.1 Site Suitability	15
7.2 Traffic.....	15
7.3 Heritage	16
7.4 Noise.....	18
7.5 Bushfire risk	19
7.6 Objects of the EP&A Act and Public Interest.....	19
8 CONCLUSION: THE COMMISSION’S FINDINGS AND DETERMINATION	21
APPENDIX A	22

EXECUTIVE SUMMARY

Best-Practice Education Group Pty Ltd (the Applicant) seeks development consent for the adaptive reuse of an existing heritage-listed dwelling known as Mount Errington, located at 1 Rosemead Road, Hornsby, within the Hornsby Local Government Area (LGA).

The proposed development is for the purpose of a new pre-school and primary school for up to 80 students and nine staff, known as Blue Gum Community School (Project). Proposed works include additions and alterations to the existing dwelling, provision of new on-site car parking, tree removal, landscape works and new fencing.

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

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

Key comments raised by members of the community at the Public Meeting and in written submissions received by the Commission include: the need for a new school; site suitability; traffic and car parking; heritage; noise; tree removal; and bushfire.

In DPIE's view, the Project is "approvable", and it concluded in its Assessment Report (AR) that "*the proposal is in the public interest and would provide a range of public benefits, including provision of new school and pre-school for the Hornsby LGA... and 20 new construction jobs and capacity for 9 [full time] staff*".

After careful consideration of the material in front of them, and after considering the community's views presented at the Public Meeting and in written submissions received by the Commission, the Commission has determined that consent should be granted for the Project, subject to conditions. The conditions are designed to prevent, minimise and / or offset adverse environmental impacts and ensure the ongoing monitoring and environmental management of the Site.

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

DEFINED TERMS

ABBREVIATION	DEFINITION
Applicant	Best-Practice Education Group Pty Ltd
Application	State Significant Development Application SSD 10444
APZ	Asset Protection Zone
BCA	Building Code of Australia
Commission	Independent Planning Commission of NSW
Council	Hornsby Shire Council
DPIE	Department of Planning, Industry and Environment
DPIE AR	DPIE's Assessment Report dated January 2021
EIS	Environmental Impact Statement
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
GLAs	General Learning Areas
HLEP 2013	<i>Hornsby Local Environmental Plan 2013</i>
IPA	Inner Protection Area as defined by <i>Planning for Bushfire Protection Guidelines 2019</i> (NSW Rural Fire Service)
LEP	Local Environmental Plan
LGA	Local Government Area
Relevant Considerations	Relevant mandatory considerations, as provided in s 4.15(1) of the EP&A Act
Material	The material set out in section 5.3
Minister	Minister for Planning and Public Spaces
OOSH	Out-of-school-hours
Project	The adaptive re-use of an existing dwelling for the purpose of a new school, as defined in Section 2.2 of this Statement of Reasons
Recommended Conditions	The recommended conditions of consent as set out at Appendix C of the DPIE AR
RFS	NSW Rural Fire Service
Regulations	<i>Environmental Planning and Assessment Regulations 2000</i>
RtS	Response to Submissions
SRD SEPP	<i>State Environmental Planning Policy (State and Regional Development) 2011</i>
Site	1 Rosemead Road, Hornsby (Lot A DP 327582)
SSD	State Significant Development

1 INTRODUCTION

1. On 13 January 2021, the NSW Department of Planning, Industry and Environment (**DPIE**) referred a State significant development (**SSD**) application (SSD 10444) (**Application**) from Best-Practice Education Group Pty Ltd (**Applicant**) to the NSW Independent Planning Commission (**Commission**) for determination.
2. The Application seeks approval for the adaptive reuse of an existing dwelling for the purpose of a new school, known as Blue Gum Community School (**Project**) in the Hornsby Local Government Area (**LGA**) under section 4.36 of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**).
3. The Commission is the consent authority for the Application under section 4.5(a) of the EP&A Act and clause 8A of the *State Environmental Planning Policy (State and Regional Development) 2011* (**SRD SEPP**). This is because:
 - the Application constitutes SSD under section 4.36 of the EP&A Act (development declared SSD) as the proposal is for the purpose of a new school under clause 15(1) of Schedule 1 of the SRD SEPP; and
 - DPIE received more than 50 unique submissions from the public objecting to the Application.
4. Professor Mary O’Kane AC, Chair of the Commission, nominated Mr Peter Duncan AM (Chair) and Mr Adrian Pilton to constitute the Commission Panel determining the Application.

2 THE APPLICATION

2.1 Site and Locality

5. The site is located at 1 Rosemead Road, Hornsby (Lot A DP 327582) (**Site**).
6. DPIE’s Assessment Report (**DPIE AR**), dated January 2021, describes the Site at section 1.2 as comprising an overall area of 3,623 square metres with frontage of 83.1 metres to Rosemead Road and 40.5 metres to William Street.
7. At Assessment Report Paragraph (**ARP**) 1.2.2, DPIE describes the site as generally flat with a slight downward slope to the south and as being surrounded by low density residential development.
8. Existing development at the Site comprises a two-storey dwelling, detached single car garage, looped entrance driveway and established gardens. The dwelling and gardens are listed as an item of local heritage significance under Schedule 5 of the *Hornsby Local Environmental Plan 2013* (**HLEP 2013**) as *Item No 545 – Mount Errington and Gardens* (ARP 1.2.4). The Site is also listed as an item of significance on the NSW National Trust Register (ARP 1.2.5).
9. The north corner of the Site is mapped as Bushfire Prone Land (Buffer) on Hornsby Shire Council’s (**Council**) Bushfire Prone Land Map.
10. The location of the Site is illustrated in Figures 1 and 2 below.

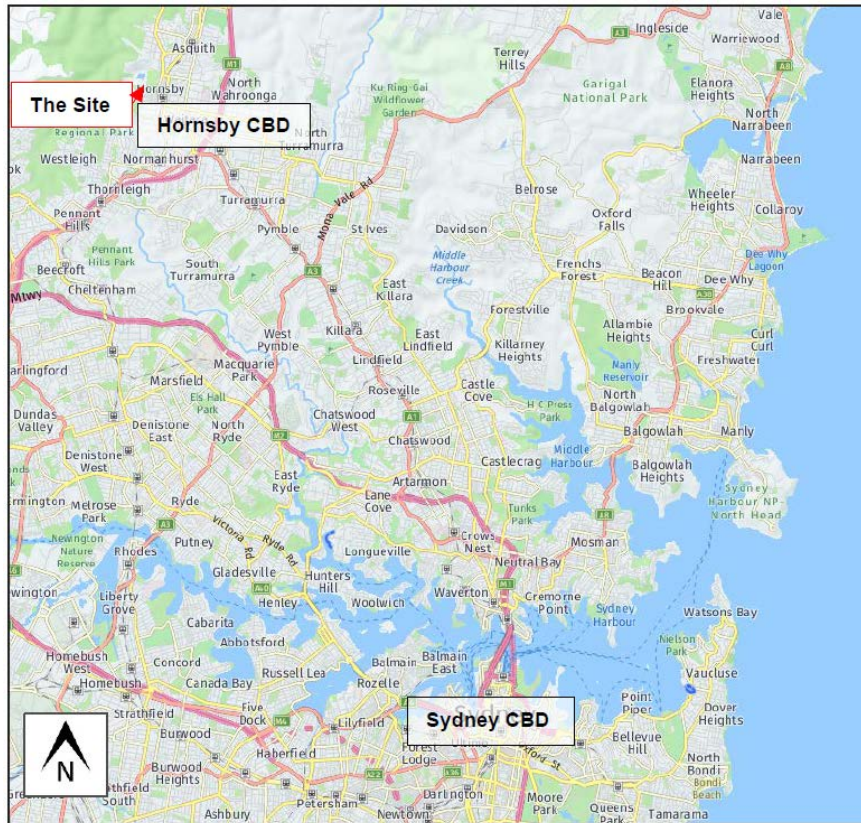


Figure 1 Regional Context Map (source: DPIE AR, Figure 1)



Figure 2 Site and Local Context Map (source: DPIE AR, Figure 2)

2.2 The Project

11. The DPIE AR describes the Project at section 2.
12. The main components of the Project are set out at Table 1 of the DPIE AR, which is attached in full at **Appendix A** of this Statement of Reasons.
13. Table 1 of the DPIE AR states that the Project is for the purpose of:

A new pre-school (32 students aged 3–5 years) and primary school (48 students aged 6–8 years) for up to 80 students and nine staff including additions and alterations to the dwelling, on-site car parking, tree removal, landscape works and fencing.

2.3 Need and Strategic Context

14. At ARP 3.1.4, DPIE states the western side of Hornsby town centre is zoned to cater for high density residential and commercial developments in the future and therefore the school would “provide for an additional pre-school and a primary school facility for the existing and future population in the area”.
15. At ARP 3.2.1 and 3.2.2, DPIE also states the Project is appropriate for the Site because it will provide direct investment in the region supporting operational and construction jobs.
16. ARP 3.2.1 notes that DPIE considers the Project to be consistent with:
 - *Greater Sydney Region Plan: A Metropolis of Three Cities, 2018;*
 - *North District Plan, 2018;*
 - *NSW Future Transport Strategy 2056;* and
 - *State Infrastructure Strategy 2018 – 2038.*
17. The Commission has considered the strategic planning policies and guidelines relevant to the Site and to the Project. The Commission finds the Project supports the predicted family orientated residential growth in the Hornsby LGA over the next 10-20 years. The Commission is of the view that the Site is well placed to serve its target market in pre-school and primary school education and provides an alternative education option to mainstream NSW public or private curriculums.
18. The Commission considers the Project to be consistent with the strategic objectives of the region, including Hornsby LGA’s identification as a key regional centre focused on providing for new communities, jobs and services (*Greater Sydney Regional Plan, 2018*).

3 COMMUNITY PARTICIPATION & PUBLIC SUBMISSIONS

3.1 Community Group Attendance at the Site Inspection

19. On 9 February 2021, the Commission conducted an inspection of the Site.
20. The Commission invited representatives from community groups to attend and observe at the Site inspection. Representatives of the Hornsby Conservation Society attended the Site inspection, as well as two individual neighbours.

3.2 Public Meeting

21. The Commission conducted a Public Meeting on 10 March 2021. The Public Meeting was held electronically with registered speakers presenting to the Commission Panel via telephone or video conference. The Public Meeting was streamed live on the Commission's website.
22. The Commission heard from the Department, the Applicant, various community group representatives, individual community members, and members of Council, including Hornsby Shire Council Mayor, The Honourable Philip Ruddock AO, and Councillor Joe Nicita (Ward B). In total, 15 speakers presented to the Commission during the Public Hearing.
23. The Commission notes that prior to his presentation to the Commission Panel, Mayor Ruddock clarified that he was speaking in his capacity as Mayor, but not on behalf of Council.
24. Presentations made at the Public Meeting have been considered by the Commission as submissions and are referenced below in section 3.3.

3.3 Public Submissions

25. As part of the Commission's consideration of the Project, all persons were offered the opportunity to make written submissions to the Commission until 5.00pm on 17 March 2021.
26. The Commission received written submissions from 31 individuals. The submissions made to the Commission comprised the following:
 - Seven (7) submissions in support of the Application;
 - 23 objections to the Application; and
 - One (1) comment on the Application (neither objecting nor supporting the Project).
27. Key comments raised about the Application related to:
 - the need for a new school;
 - site suitability;
 - traffic and car parking;
 - heritage;
 - noise;
 - tree removal; and
 - bushfire risk.

Comments made by the public are summarised below.

Need for a new school

28. The Commission received a number of objections to the Project questioning whether a new school is needed in this locality. Members of the public commented that the Project is unnecessary infrastructure given that there are already a number of pre-schools and primary schools in proximity to this Site.

Site suitability

29. The Commission received submissions with respect to the suitability of the Site to accommodate a new pre-school and primary school.
30. The Commission heard from members of the public at the Public Meeting, and received written submissions made in support of the Project where members of the community noted the adaptive reuse of the existing heritage building for use as a school will successfully restore the old estate, while also allowing children to benefit from learning in a high amenity heritage building.
31. However, objectors to the Project commented that use of the Site for the purpose of a school will certainly result in damage to the heritage fabric of the existing building.
32. Supporters of the Project considered the provision of a “*smaller, independent, progressive school such as the Blue Gum School*” as a positive alternative option to mainstream schools and of benefit to the community as a whole.

Traffic and carparking

33. The Commission received numerous written submissions and heard from speakers at the Public Meeting who raised concerns about the traffic impacts from the Project, including congestion and traffic safety impacts. With regard to congestion, the submissions indicate the existing road network surrounding the Site is narrow and there is not enough space for passing cars when cars are parked on the sides of streets, resulting in an increased risk of accidents and damage to vehicles parked along the street. The submissions raised concern that the proposed additional 80 vehicles using the street network during morning and afternoon peaks will exacerbate the issue.
34. Members of the public consider that the additional on-street parking will reduce visibility creating dangerous corners and increasing risk for residents entering and exiting driveways and for pedestrians and cyclists along the street.
35. The submissions also raised concern about parents waiting in cars for extended periods with engines running for air conditioning, which reduces air quality and adds to pollution, noise and heat.
36. A group of local residents commissioned an independent traffic report (dated December 2020 and Addendum dated February 2020) and submitted it to DPIE and the Commission.
37. The independent traffic report states “*Hornsby railway station and bus stops would not facilitate reduced car usage by parents*” due to the distance of these facilities from the Site and the likelihood that they would not be used by the expected students (aged 8 years and under). The report concludes “*the projected increase in traffic activities as a consequence of the proposed development would clearly have some unacceptable traffic implications on the surrounding road network in terms of road capacity and traffic safety*” and “*the increase in traffic as a result of the development would have negative impact on the residential amenity and environmental capacity*”. The parking assessment undertaken for the independent traffic report suggests the existing on-street parking available in proximity to the Site may be insufficient.
38. The independent addendum traffic report states the proposed queuing of up to six vehicles in the driveway is not compliant with the relevant Australian Standard, which “*does not permit vehicles to either be parked or intentionally stopped [even for a short period of time] on either access driveway or collector roadway*”. The independent addendum traffic report concludes the proposed ‘kiss and drop’ arrangement also does not comply with the Hornsby Development Control Plan 2013 (**HDCP 2013**).
39. The independent addendum traffic report indicates the stopping distances and the minimum safe gap distance for vehicles travelling along Dural Street into Rosemead Street and the Site’s driveway are “*not compliant with the [Australian] standard requirements*”.

Heritage

40. The Commission received written submissions and heard from speakers at the Public Meeting who objected to the Project on the basis of heritage impacts. Members of the public noted that significant trees are proposed for removal, which they consider will detrimentally impact the streetscape amenity and the 'Hornsby West Side Heritage Conservation Area' and the 'Mount Errington Heritage Precinct'.
41. Objectors to the Project note the existing dwelling is a rare example of the Arts and Craft architectural style within a unique streetscape and bushland setting. Members of the public consider the heritage significance of the dwelling will be lost if the proposed internal and external alterations and additions are permitted.
42. The Commission received written submissions stating that the Project will have "*significant, irreversible, detrimental impacts on the heritage values of this outstanding, intact heritage home in perpetuity*". Submissions raised concerns about the adaptive reuse of the Site, indicating Mount Errington already has a viable use as a highly sought-after heritage home which doesn't need to be adaptively re-used. The submissions stated there have been other, recent sales of similar large homes in the area for the purpose of a family home, which demonstrates demand for such properties.
43. At the Public Meeting, Mayor Ruddock stated:

I see the proposals as being incompatible with its heritage character. The fire stairs have been one aspect. The building areas that are going to be altered are another. They're adjusted, because you have to have regard to children's needs, but they do derogate from the heritage... I think this site doesn't lend itself to this development no matter how much effort is put in to trying to ensure that it can be made responsive to some of the concerns that I have outlined.
44. At the Public Meeting, Councillor Nicita stated:

It's my view that this site and its condition are integral to the heritage conservation area in which it sits and represents a part of our local history that we can't afford to see diminished. It's not fit for purpose as a school, quite simply. While attempts to minimise some impacts have been made, it is important to consider the intact value of the site as it is, and how changes to the fabric of the structure or alterations of the equally important garden setting will adversely impact on the heritage.
45. Written submissions received by the Commission also expressed concerns that the "*proposal does not achieve a balance between the low-level benefits of a small school which provides a small number of jobs and little economic input (again just \$600,000), and managing, minimising or mitigating the impacts on the heritage and biodiversity values of this Heritage Listed item*".
46. The Commission also received submissions stating the proposed removal of the heritage gates, alteration of the driveway and a significant number of mature trees would have "*an irreversible impact on the heritage and values of this dwelling, as well as on the environmental values. These impacts alone would warrant refusal of this proposal*".
47. Objectors noted the proposed new car parking area and 'kiss and drop' parking bay destroys the heritage connection between the garden and the house.
48. Objectors to the Project requested that Council purchase the property to protect and preserve it.
49. The Commission also received submissions in support of the Project, stating the proposed use is a suitable way to preserve the home and allow a variety of people to experience and utilise it in an appropriate way.

Noise

50. The Commission received submissions raising concerns with the noise emissions from the Project, indicating noise from the school will impact the amenity of the area and compromise the peaceful wellbeing of the surrounding residents. Of particular concern is outdoor play times and the morning and afternoon drop off and pick up times.
51. An independent acoustic report was commissioned by a group of local residents and submitted to the Commission. The independent acoustic report states the Applicant's noise impact assessment in the EIS contains numerous errors and provides an alternative assessment of the potential noise emissions from the Project. The independent acoustic report concludes the *"noise levels to be generated by activities associated with the proposed community pre-school and primary school, i.e. the outdoor activity areas and the additional on-road traffic and traffic in the car parking area, is predicted to be non-compliant with the noise goals and all relevant acoustical guidelines"*.
52. The independent acoustic report concludes that *"the proposal is predicted to have negative noise impacts on all residential neighbours"* and the Site is unsuitable for the proposed use.
53. Another submission received by the Commission also raised concerns with the noise measurements in the EIS with respect to the studio on an adjoining property:

The applicant and then DPIE, have incorrectly ascribed this as being a garage, which would therefore not be described as a habitable dwelling. However as the neighbouring owner attests, it is a habitable dwelling. The driveway, with multiple car use, should not be in such close proximity to this habitable dwelling. These living quarters should have been ascribed as a 'sensitive receiver' with regard to noise levels. The noise levels have therefore been incorrectly calculated.
54. Concerns were also raised with respect to potential after hours impacts due to special events, parent meetings, concerts and vacation care, *"which is not suitable in this area due to parking and noise issues"*.

Tree removal

55. The Commission received written submissions objecting to the Project on the basis of tree removal, raising concerns that the removal of so many significant trees will have an adverse impact on the locality. One submission stated:

The removal of 41 trees, many of which are endemic to Hornsby Shire, and their replacement by just 3 trees, is totally unacceptable and is inconsistent with the current Hornsby Shire Council Green Offset Code.
56. Objections to the Project indicate that the requirement to remove the trees makes the site inappropriate for this type of development and that it should be located on a site that doesn't require significant tree removal. Submissions commented that tree retention in Sydney is important for temperature regulation, wildlife and quality of life purposes.

Bushfire risk

57. The Commission received written submissions raising concerns about bushfire impacts, stating *"this is a bushfire prone area and in the case of an emergency evacuation the safest way is via William Street. School traffic would add to existing residents trying to make their way out"* causing congestion and confusion in the event of an emergency.

4 THE DEPARTMENT'S CONSIDERATION OF THE APPLICATION

58. Table 1 provides an overview of the key steps in DPIE's consideration of the Application.

Table 1 – Overview of Key Steps

Date	Key steps
19 April 2020	DPIE issued the Planning Secretary's Environmental Assessment Requirements (SEARs).
28 May 2020	DPIE reissued the SEARs to amend the consultation requirements to remove local Aboriginal land councils and registered Aboriginal stakeholders.
1 June 2020	The Applicant lodged its Environmental Impact Statement (EIS) and supporting documents to DPIE.
11 June 2020 to 8 July 2020	DPIE publicly exhibited the EIS (28 days). 63 submissions were received by DPIE during this period, comprising eight from public authorities, one objection from a special interest group and 54 public submissions (52 objections).
17 July 2020	DPIE requested the Applicant provide a response to the submissions received.
11 November 2020	The Applicant provided its Response to Submissions (RtS) to DPIE.
26 November 2020	The Applicant sought an amendment to the Application under clause 55 of the <i>Environmental Planning and Assessment Regulation 2000</i> .
28 November 2020	DPIE accepted the proposed amendments under clause 55 (above) (ARP 5.5.2).
8 December 2020	The Applicant provided its Supplementary RtS (SRtS) to DPIE.
January 2021	DPIE completed its assessment report and recommendation.
13 January 2021	DPIE referred the Application to the Commission for determination.

59. At Section 7 of the DPIE AR, DPIE concludes that the Project is consistent with the objects of the EP&A Act and is in the public interest. DPIE further concludes "*the impacts of the proposal are acceptable and can be appropriately mitigated by the recommended conditions of consent*" [as set out at Appendix C of DPIE AR (**Recommended Conditions**)]" (ARP 7.1.1). DPIE recommended approval subject to the Recommended Conditions.

5 THE COMMISSION'S CONSIDERATION

5.1 The Department's Assessment Report

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

5.2 The Commission's Meetings

62. As part of its proposal determination, the Commission met with various persons as set out in Table 2.
63. All meeting transcripts and site inspection notes have been made available on the Commission’s website.

Table 2 – Commission’s Meetings

Meeting	Date of Meeting	Transcript / Notes Available on
Department	4 February 2021	5 February 2021
Applicant	4 February 2021	4 February 2021
Council	4 February 2021	4 February 2021
Public Meeting	10 February 2021	11 February 2021
Site Inspection	9 February 2021	12 February 2021

5.3 Material considered by the Commission

64. In this determination, the Commission has carefully considered the following material (the **Material**), along with other documents referred to in this Statement of Reasons:
- the SEARs, dated 19 April 2020 and 28 May 2020;
 - the Applicant’s Environmental Impact Statement (**EIS**), dated 1 June 2020, and its accompanying appendices;
 - all submissions made to DPIE in respect of the proposed Application during the public exhibition of the EIS, from 11 June 2020 until 8 July 2020;
 - the Applicant’s Response to Submissions (**RtS**), dated 11 November 2020, and its accompanying appendices;
 - the Applicant’s Supplementary RtS (**SRtS**), dated 8 December 2020, and its accompanying appendices;
 - DPIE’s AR, dated January 2021, including material considered in that report;
 - DPIE’s Recommended Conditions of consent, dated January 2021;
 - the material covered in the meetings with the Applicant, DPIE and Council and the site visit and locality tour (paragraph 63);

- all speaker comments made to the Commission at the Public Meeting held on 10 February 2021;
- material presented at that Public Meeting;
- all written comments received and accepted by the Commission in the submission period until 5pm on 17 February 2021; and
- DPIE's response to the question on notice dated 10 February 2021.

6 STATUTORY CONTEXT

6.1 State Significant Development

65. The proposed primary school is SSD under section 4.36 of the EP&A Act and clause 15 of Schedule 1 of the SRD SEPP. The pre-school is directly related to the primary school with both uses under the same operation at the same location. Clause 8(2) of the SRD SEPP provides that where a component of a single development application is declared SSD (in this instance the primary school component), the remainder of the development (in this instance the pre-school component) is also declared to be SSD.
66. Under section 4.5(a) of the EP&A Act and clause 8A(1) of the SRD SEPP, the Commission is the consent authority for the Application because DPIE received more than 50 unique objections to the Project during the exhibition period.

6.2 Permissibility

67. At ARP 4.2.1, DPIE identifies the Project as being located on land zoned R2 Low Density Residential, as identified in the HLEP 2013. The Commission notes 'educational establishments' and 'centre based child-care facilities' are both permissible in the R2 zone with development consent.

6.3 Mandatory considerations

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

6.3.1 Relevant Environmental Planning Instruments

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

6.3.2 Relevant Proposed Instruments

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

6.3.3 Relevant Development Control Plans

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

6.3.4 The Likely Impacts of the Development

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

6.3.5 The Suitability of the Site for Development

75. The Commission has considered the suitability of the Site. The Commission finds that the Site is suitable for the purposes of a new pre-school and school for the following reasons:

- the Site is on land zoned R2 and the Project is permissible with consent under HLEP 2013 and the SRD SEPP;
- the Project complies with the strategic planning directions of State and Local planning policies (Table 9 of DPIE's AR);
- the Project is an orderly and economic use of the Site and will provide for an appropriate adaptive reuse of the heritage item; and
- any residual impacts from the Project can be appropriately managed and mitigated through the imposed conditions of consent.

6.4 Additional Considerations

76. In determining this application, the Commission has also considered:

- *Educational Facilities Standards and Guidelines (EFSG)*;
- *Greener Places* (Government Architect NSW);
- *Guideline for Child Care Centre Acoustic Assessment (AAAC)*;
- *Interim Construction Noise Guideline (ICNG)*;
- *NSW Noise Policy for Industry (NPfI)*;
- *NSW Road Noise Policy (RNP)*;
- *North District Plan 2018* (Greater Sydney Commission).

7 CONSIDERATION OF KEY IMPACTS

7.1 Site Suitability

77. The Commission notes the Site's suitability for the Project and its compatibility with surrounding land uses was a concern raised by members of the community (paragraphs 29 to 32).
78. The Commission has considered the Applicant's view as set out in the EIS that the location is appropriate for the Project as it is situated in a natural setting that aligns with the ethos of the school and the delivery method of its curriculum. The EIS also states the location is suitable with respect to its proximity to transport and local road connections.
79. At its meeting with the Commission (paragraph 62), Council indicated it is satisfied the Project is a suitable use of the Site and the proposed adaptive reuse of the existing dwelling will provide conservation benefits to the heritage item.
80. The Commission notes DPIE's conclusion that the Project complies with the Strategic planning directions of the State and the locality. Table 9 of the DPIE AR notes that the Project is a permissible development and "*the impacts on the surroundings regarding heritage, traffic, visual privacy, tree loss and noise are considered acceptable*". DPIE further note "*the development would allow the continued use of a heritage listed dwelling and is a positive outcome for the site with a benefit to the current and future population of the area*" (DPIEs AR, Table 9). DPIE states that any residual impacts can be managed by the Recommended Conditions and it is "*satisfied that the site is suitable for the development and is in the public interest*" (DPIEs AR, Table 9).
81. The Commission agrees with Council and DPIE that the Project is a permitted use and will provide an alternative education option for the area and is an appropriate adaptive reuse of a heritage item. The Commission finds any heritage, traffic, visual privacy, tree loss, noise and bushfire impacts have been mitigated where possible (as addressed in the following sections of this Statement of Reasons) and residual impacts can be managed through the imposed conditions. Therefore, the Commission finds the Site to be suitable for this Project.

7.2 Traffic

82. The Commission notes traffic and carparking impacts were significant concerns raised in submissions by members of the public (paragraph 33 to 39).
83. The Applicant's EIS and RTS includes a Traffic and Parking Assessment Report, which concludes the service level in surrounding roads would remain at the current operating level with the expected traffic generation and that the cumulative traffic flows will remain within the Transport for NSW (TfNSW) environmental goals for local and collector roads.
84. The Applicant's EIS indicates the proposed site exit driveway has been positioned to achieve maximum visibility along Rosemead Road.
85. With respect to parking, the Applicant's EIS and RTS indicates the Project provides 12 on-site parking spaces and six vehicles can be accommodated in the 'kiss and drop' driveway. The Applicant states that the proposed parking complies with the *Hornsby Development Control Plan 2013* and has sought to further reduce parking impacts by staggering student pick up times into three 10-minute blocks (with each 'group' comprising 8-10 students).
86. At its meeting with the Commission, Council indicated that it does not consider the traffic parking impact assessment report or the design to be inappropriate and considers the currently proposed parking arrangement to be suitable for the Site.

87. In terms of traffic generation, DPIE considered the Applicant's Traffic and Parking Impact Assessment and the two peer reviewed traffic reports provided by neighbouring residents (ARP 6.2.17). DPIE notes Council and TfNSW did not raise any concerns with respect to the traffic generated by the Project. DPIE concludes it is satisfied with the proposed measures to mitigate and manage traffic impacts (such as staggering the drop off/pick up and staff traffic control) (ARP 6.2.17) and "*is satisfied that the proposed development would not result in unacceptable traffic impacts on the locality*" (ARP 6.2.20).
88. With respect to carparking, DPIE notes it considers "*the proposed number of car spaces is appropriate for the development*" (ARP 6.2.27). DPIE notes concerns raised by the community with respect to occasional special events at the school placing additional pressure on street parking (ARP 6.2.23), however DPIE is of the view that occasional special events at the school would be of short duration and the surrounding locality would have the capacity to accommodate additional parking demand, if necessary (ARP 6.2.27). Notwithstanding, DPIE have recommended a condition requiring an Events Management Plan be prepared prior to the first event on the site that would accommodate more than 50 people (ARP 6.2.28).
89. The Commission also notes DPIE is satisfied with the proposed access and pedestrian safety measures. DPIE notes the proposed internal loop road with left turn in and left turn out provides appropriate vehicular access to the Site (ARP 6.2.42). However, noting community concerns, DPIE has recommended a condition requiring a Road Safety Audit to be completed within four months of occupation of the development and should this audit identify any hazards in association with the driveway use additional mitigation measures will be required (ARP 6.2.50).
90. DPIE concludes the proposed traffic management around drop off and pick up times "*is suitable to cater for the proposed low number of students*" (ARP 6.2.27) and has recommended a condition requiring the implementation of an Operational Traffic and Access Management Plan and appropriate signage to manage the traffic during peak times (ARP 6.2.43).
91. The Commission notes the community concerns with respect to traffic generation, parking and safety resulting from the Project and acknowledges that schools can generate traffic congestion within the locality for a short duration. However, the Commission notes the proposed use is a permissible development and agrees with the findings of DPIE and Council that the traffic assessment submitted with this Project is suitable for the nature and extent of operational traffic impacts associated with the Project.
92. The Commission agrees with DPIE's conclusions as set out in paragraphs 87 to 90 that the expected traffic generation of the Project has been appropriately calculated and the proposed parking provision, vehicular and pedestrian access and traffic management during peak times is suitable for the Site.
93. The Commission has imposed conditions to manage construction traffic and operational traffic and also DPIE's Recommended Conditions with respect to the preparation of an Events Management Plan and Road Safety Audit. The Commission finds that these are appropriate mitigation and management measures in this context and are reasonable for the scale of school proposed.

7.3 Heritage

94. The Commission notes numerous submissions made to the Commission objected to the Project on grounds of heritage impact (paragraphs 40 to 49).

95. The Applicant's EIS included a Statement of Heritage Impact, which states the Project will not entail the demolition of significant heritage features. The EIS concludes the project will have an overall minimal heritage impact on the Site and the 'Mount Errington Heritage Conservation Area'. The EIS further states the proposed change of use at the Site is positive from a heritage perspective because it encourages continued occupation, restoration and interpretation of the Site's cultural significance. At its meeting with the Commission (paragraph 62), the Applicant described how its objectives for the proposed design are to remove as little of the heritage fabric of the Site as possible and apply "*maximum reversibility, which means all the interventions into the building, such as the attached fire stair, all of these things can be removed without any damage to the heritage building*" (transcript of Applicant meeting, page 10).
96. The Commission also discussed heritage matters at its meeting with Council (paragraph 62). In terms of the vegetation removal, the Commission notes Council does not have any ongoing heritage concern with regard to the removal of the trees on this listed garden (transcript of Council meeting, page 7). Council further noted:
- ...overall we've deemed it to be a minimal adverse impact, and most of the items can be restored, should a future use of the dwelling be proposed. So we – Council has no further issues in terms of heritage and any outstanding issues have been covered in the conditions of consent provided.*
97. The Commission note the DPIE assessment of the Project from a heritage perspective included an independent peer review of the Applicant's Statement of Heritage Impact. The independent heritage peer review concluded that the proposed use of the dwelling as a school is a suitable use of the Site, ensuring the house and garden are occupied and maintained into the future and that the dwelling remains legible as a large Arts and Crafts house in a substantial garden setting (ARP 6.1.8). However, the independent heritage peer review made several recommendations in relation to the development. The Commission notes the Applicant incorporated some amendments in response to these recommendations, but after exploring several options DPIE is satisfied that the Project in its current form is "*the only feasible and reasonable way to develop the site, complying with the relevant traffic guidelines with least impact on the heritage item*" (ARP 6.1.9).
98. DPIE conclude the proposed external alterations to the dwelling, the gardens and removal of trees would have some impacts on its heritage significance. However, DPIE is of the view that the Applicant has investigated design alternatives and demonstrated that the proposed site layout with on-site car parking, and drop-off and pick-up bays, and alterations to the dwelling are integral to the viability of the development. DPIE further concludes the overall benefits of the proposal in retaining the dwelling and the gardens while proposing a school use on the site would outweigh the identified negative heritage impacts and any residual impacts would be managed by the Recommended Conditions.
99. The Commission agrees with DPIE's conclusions outlined above. The Commission acknowledges that certain upgrades are necessary in order to meet current building standards and traffic guidelines, which will have some impact on the heritage significance. However, the Commission finds that, on balance, the Project provides a viable long-term use of the site that ensures the ongoing conservation and interpretation of the heritage item. The Commission is of the view that the limited heritage impacts are outweighed by the benefits of the adaptive reuse.
100. The Commission supports the reversibility approach with all building modifications and agrees with DPIE, the independent heritage peer review and Council, that the Project will result in positive heritage outcomes including the symbolic representation of the tennis court, improved fencing and gates and the maintenance of the Arts and Crafts home in a large garden setting.

101. The Commission notes that concern was raised by members of the public regarding the proposed new external fire stair. The Commission notes comments made by Council's Heritage Planner during its meeting with the Commission that the fire stair is proposed to be painted in a visually recessive colour, which is supported by Council. The Commission agrees with Council and has imposed conditions requiring development in accordance with approved plans.
102. The Commission has imposed the Recommended Conditions to manage any residual impacts and finds the Project to be acceptable from a heritage perspective, subject to the imposed conditions.

7.4 Noise

103. Noise impacts were raised as a concern in the submissions made to the Commission (paragraphs 50 to 54).
104. The Applicant's EIS included an Acoustic Assessment Report that concludes that the acoustic performance of the Project will comply with the requirements of all relevant acoustic guidelines and requirements, subject to attenuation measures to help reduce any noise associated with outdoor activities. The proposed attenuation measures include the supervision / management of children (no more than 48 children are permitted in play areas outside at any one time), external surface treatments and inclusion of landscape elements such as double lapped timber boundary fencing.
105. The Commission notes the EIS also proposes a Noise Management Plan that includes supervision and management measures for the indoor and outdoor school activities and driver behaviour and a complaints mechanism. The RTS rearranged the carpark to move the car parking spaces away from the property boundary and the RTS concludes the noise associated with the drop off and pick up is not expected to impose an unreasonable noise burden.
106. The Commission notes DPIE's assessment of the noise impacts includes consideration of the proposed attenuation measures identified in paragraphs 104 and 105 above and also the proposed measures such as no use of school bells, outdoor speakers or public address systems at the school and limiting noise generation to between 8.00am and 6.00pm on weekdays (ARP 6.3.12).
107. The Commission agrees with DPIE's assessment that the EIS and RTS documents provide a comprehensive assessment of the operational noise sources of the school (ARP 6.3.40) and concludes that the Project can operate in accordance with the established noise objectives in the Acoustic Assessment Report, subject to the implementation of noise attenuation measures and a Noise Management Plan and the construction of the boundary fencing.
108. The Commission also notes DPIE's consideration of sensitive receivers and the discrepancy raised in the submissions that the closest building to the car park (a garage that has been converted to a home office) has not been considered as a sensitive receiver. The Commission agrees with DPIE's assessment of operational noise objectives, which have been considered at property boundaries, rather than specific buildings, and the noise objectives at the property boundaries comply with the relevant guidelines (ARP 6.3.41).
109. The Commission is of the view that there would be no unreasonable impact during the drop-off and pick-up times but acknowledges the concerns of the community raised in the submissions. Therefore, the Commission has imposed DPIE's Recommended Conditions that include additional noise assessment requirements, limited hours of operation, the preparation of a noise management plan and ongoing monitoring after commencement of the operation.

110. The Commission finds the Project to be acceptable from a noise impact perspective, subject to the imposed conditions.

7.5 Bushfire risk

111. The Commission notes bushfire safety impacts were raised as a concern in the public submissions (paragraph 57) with respect to compromised emergency evacuation, and by Council in terms of potential vegetation removal required to achieve Asset Protection Zones (**APZ**) to the detriment of the heritage listed garden.
112. The Commission also notes DPIE sought advice from the NSW Rural Fire Service (**RFS**) during its assessment of the Project. The RFS recommended a condition be placed on any consent issued requiring the entire site to be managed as an Inner Protection Area (**IPA**) in accordance with the *Planning for Bushfire Guidelines 2019*.
113. The Applicant's RTS provided a statement confirming additional tree removal beyond that already proposed is not required to achieve the IPA requirements.
114. The Commission notes DPIE's assessment of bushfire safety matters as set out in Table 9 of the DPIE AR and notes no public authority raised concerns about the Project subject to the Recommended Conditions. DPIE concludes it is satisfied the Site is suitable for the Project from a bushfire perspective, subject to the management of the Site as an IPA and the preparation of an Emergency Evacuation Plan.
115. In correspondence dated 10 February 2021, following its meeting with the Commission, DPIE responded to concerns that if vegetation removal is required to accommodate an IPA, the heritage significance of the gardens might be compromised. In its letter, DPIE confirmed it "*considers that subject to the recommended conditions the functionality of the proposed development would not be compromised to meet the IPA*".
116. In correspondence dated 17 February 2021, following its meeting with the Commission, the Applicant provided a statement to clarify that management of the Site as an APZ will not require any additional tree removal.
117. The Commission finds the bushfire risk assessment that has been undertaken is suitable for the Site and the Project. In terms of the maintenance of the Site as an IPA, the Commission has amended DPIE's Recommended Condition to provide greater certainty on the requirements for future management of the site as an APZ. The Commission is satisfied that no additional tree removal is required to achieve the bushfire protection requirements and that the Site can be managed as an APZ without compromising the heritage significance of the dwelling and gardens.
118. The Commission finds that the proposed bushfire management measures for the Project are suitable, including the management of the Site as an APZ and the preparation of an Emergency Evacuation Plan.

7.6 Objects of the EP&A Act and Public Interest

7.6.1 Objects

119. In this determination, the Commission has carefully considered the Objects of the EP&A Act. The Commission is satisfied with DPIE's assessment of the Application against the Objects of the EP&A Act provided at Table 2 of the AR, which finds that the Project is consistent with those Objects.
120. The Commission finds the Application has been assessed in accordance with relevant EPIs and is capable of complying with the required mitigation measures to achieve consistency with the Objects of the EP&A Act.

Ecologically Sustainable Development

121. At ARP 4.4.6 and 4.4.7 of DPIE's AR, DPIE states that the proposed reuse of a heritage listed building is a sustainable approach and recognises that, due to that reuse, there are limited opportunities to incorporate Ecologically Sustainable Development (**ESD**) measures. However, DPIE considers ESD initiatives can be included with respect to heating, ventilation and air conditioning selection and the use of efficient lighting and water equipment and fixtures. DPIE has recommended and the Commission has imposed a condition accordingly.
122. The Commission is satisfied with DPIE's assessment of the Project under the ESD principles and finds that the precautionary and inter-generational equity principles have been applied in the decision-making process through the rigorous assessment of the potential environmental impacts of the Project.
123. The Commission finds that the Project promotes ESD subject to the imposed conditions.

7.6.2 Public Interest

124. The Commission has considered whether the Project is in the public interest in making its determination. This consideration includes weighing up the benefits of the Project against the impacts and the minimisation and mitigation measures for residual impacts.
125. The Commission finds that the Project will provide a range of public benefits, including the provision of a new and alternative education option for the Hornsby LGA, the conservation and adaptive reuse of a heritage listed building and the provision of construction and operational jobs.
126. The Commission finds that on balance, and when weighed against the Objects of the EP&A Act, the principles of ESD and the benefits of the Project, the impacts of the Project are acceptable and capable of being appropriately managed and mitigated through the measures required under the conditions of consent imposed by the Commission. The Commission finds the Project to be in the public interest.

8 CONCLUSION: THE COMMISSION'S FINDINGS AND DETERMINATION

127. The views of the community were expressed through public submissions and comments received (as part of exhibition and as part of the Commission's determination process), as well as in presentations to the Commission at the Public Meeting. The Commission has carefully considered all of these views as part of making its decision. The way in which these concerns were taken into account by the Commission is set out in section 5 above.
128. The Commission has carefully considered the Material before it (section 5.3).
129. Based on its consideration of the Material, the Commission finds that the Project should be approved, subject to conditions of consent. The reasons for the Commission's position are as follows:
- the Site is on land zoned R2 and the Project is permissible with consent under HLEP 2013 and the SRD SEPP;
 - the Project complies with State and local strategic planning directions;
 - the development of the Site for the purpose of a new pre-school and school is an orderly and economic use of the Site and will provide for an appropriate adaptive reuse of the existing heritage item; and
 - any residual impacts from the Project can be appropriately managed and mitigated through the imposed conditions.
130. For the reasons set out in paragraph 129, the Commission has determined that consent should be granted subject to conditions. These conditions are designed to:
- prevent, minimise and/or offset adverse environmental impacts;
 - set standards and performance measures for acceptable environmental performance;
 - require regular monitoring and reporting; and
 - provide for the on-going environmental management of the development.
131. The reasons for the Decision are given in the Statement of Reasons for Decision dated 9 March 2021.



Peter Duncan AM (Chair)
Member of the Commission



Adrian Pilton
Member of the Commission

APPENDIX A

Main Components of the Project (Source: DPIE AR, Table 1)

Aspect	Description
Project summary	Adaptive reuse of an existing heritage listed dwelling (Mount Errington) as a new pre-school (32 students aged 3 – 5 years) and primary school (48 students aged 6 – 8 years) for up to 80 students and nine staff including additions and alterations to the dwelling, on-site car parking, tree removal, landscape works and fencing.
Site area	3623m ² .
Building works and internal layout	<ul style="list-style-type: none">• External modifications including a fire stair and exit.• Height of timber balustrade to the first-floor balcony raised on all sides under Building Code of Australia requirements.• An additional storeroom at the rear (ground level).• Internal alterations and modifications including:<ul style="list-style-type: none">○ modifications to the existing bathrooms.○ modifications to external porch area and sunroom to create administration / staff areas and kitchen.○ alterations to the existing bedrooms and living areas on both levels to create:<ul style="list-style-type: none">– three pre-school rooms on the ground floor.– five general learning areas (GLAs) on the first and ground floors.– common areas (reading room and breakout spaces) on both levels.
Landscaping and fencing	<ul style="list-style-type: none">• Reuse of the tennis court as a car parking area.• A pedestrian walkway with a covered pergola from William Street with new a gated entry.• Landscaping along the new pathway.• Removal of the existing fence, gate and installation of new fence and gate to Rosemead Road matching the existing style.

- New timber fence (1.8m high) along William Street frontage and along the boundary with 1A Rosemead Road.
- Retention of the majority of the front garden except for provision of new driveway and removal of trees.
- Landscaped separate outdoor play areas within the rear garden for pre-school and primary school with a 1.8m high open paling fence between the dwelling and the eastern boundary.
- Shades sails at the rear to create semi covered outdoor area for the pre-school.
- Removal of 41 trees and replanting of three trees and shrubs within the site.

Access	<ul style="list-style-type: none"> • Retention, realignment and widening of the existing driveway from Rosemead Road. • Widening of the driveway area in front of the dwelling to connect the driveway to the new car park area at the rear. • Creation of an internal loop road with a new driveway crossing at the north-western corner, adjacent to 1A Rosemead Road to facilitate vehicle entry / exit in a forward direction to / from the site. • Retention of pedestrian access and creation of a new pedestrian entry from Rosemead Road. • New pedestrian access from William Street.
Car parking, bicycle parking and drop-off / pick-up zone	<ul style="list-style-type: none"> • Reuse of the tennis court as an at-grade car parking area with 10 car spaces including one accessible space and a turning area. • Two additional car spaces in front of the existing garage. • Six bicycle parking spaces adjoining the car park. • New internal drop-off / pick-up area utilising the loop road with an internal queuing capacity of up to 6 cars.
Signage	<ul style="list-style-type: none"> • One business identification sign (0.6m x 0.4m) on the Rosemead Road boundary fence.
Jobs	<ul style="list-style-type: none"> • Construction: 20 jobs. • Operational: 9 jobs.
CIV	<ul style="list-style-type: none"> • \$617,388