



Glenn McLachlan
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Sydney Catholic Schools Limited
680 George Street
SYDNEY NSW 2000

D306/22
RW (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
NOTICE OF DETERMINATION - Approval**

Development Application Number:	306/22
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Land to which this applies:	Suite 1 and Level 1/65 Berry Street, North Sydney Lot No.: 2, DP: 1230458
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Applicant:	Sydney Catholic Schools Limited
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Proposal:	Change of use from centre-based childcare facility to an educational establishment and hours of operation
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Determination of Development Application:	Subject to the provisions of Section 4.17 of <i>the Environmental Planning and Assessment Act 1979</i> , approval has been granted subject to conditions in the notice of determination.
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Date of Determination:	10 January 2023
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Reasons for Approval

The development application has been assessed against the North Sydney Environmental Plan 2013 and the North Sydney Development Control Plan 2013 and generally found to be satisfactory.

From the reasons listed above, the proposal is unlikely to cause adverse material impacts to adjoining properties, tenancies and the amenity of the local area.

Having regard to the provisions of Section 4.15 (1) of *the Environmental Planning and Assessment Act 1979*, the proposed development will not result in any unreasonable amenity or environmental impacts. The application is considered satisfactory and is recommended for approval.

Consent to operate from: 10 January 2023

Consent will lapse on: 10 January 2023

Period of Consent

Subject to Section 4.20 of the Act, this consent becomes effective and operates from the date listed above. The consent lapses five years after the date of consent in accordance with Section 4.53 of the Act and cannot be extended. To activate this consent, works must physically commence onsite 10 January 2028.

How community views were taken into account:

The subject application was notified to adjoining properties and the CBD/Stanton Precinct for 14 days and no submissions were received during this period.

Review of determination and right of appeal:


Within six months after the date of notification of the decision, a review of this determination can be requested under Division 8.2 of the Act or an appeal to the Land and Environment Court made pursuant to the provisions of Section 8.7 of the Act. A review of determination should be lodged as soon as possible, and preferably no later two months after the date of notification of the decision to enable the review to be completed within the six-month period.

Plans endorsed by the consent authority - please refer to condition A1.

Endorsed for and on behalf of North Sydney Council

10 January 2023

DATE


Signature on behalf of consent authority
DAVID HOY
TEAM LEADER (ASSESSMENTS)

(i) **Conditions**

Consent is granted subject to the following conditions imposed pursuant to Section 4.17 of the *Environmental Planning and Assessment Act 1979* ("the Act") and the provisions of the *Environmental Planning and Assessment Regulation 2000* ("the Regulation") such conditions being reasonable and relevant to the development as assessed pursuant to Section 4.17 of the Act.

(ii) **Definitions**

Unless specified otherwise, words have the same meaning as defined by the Act, the Regulation and the *Interpretation Act 1987* as in force at the date of consent.

Applicant means the applicant for this consent.

Approved Plans means the plans endorsed by Council referenced by this consent as amended by conditions of this consent.

AS or **AS/NZS** means Australian Standard® or Australian/New Zealand Standard®, respectively, published by Standards Australia International Limited.

NCC means the National Construction Code as published by the Australian Building Codes Board as in force at the date of issue of any *Construction Certificate*.

Council means North Sydney Council.

Court means the Land and Environment Court.

Local Native Plants means species of native plant endemic to North Sydney LGA.

Stormwater Drainage System means all works, facilities and documentation relating to:

- The collection of stormwater,
- The retention of stormwater,
- The reuse of stormwater,
- The detention of stormwater,
- The controlled release of stormwater; and
- Connections to easements and public stormwater systems.

Owner means the owner of the *site* and successors in title to the *site*.

Owner Builder has the same meaning as in the *Home Building Act 1989*.

Principal Certifier for building or subdivision work means the certifier appointed as the principal certifier for the building work under section 6.6 (1) or for the subdivision work under section 6.12 (1).

Principal Contractor for building work means the person responsible for the overall coordination and control of the carrying out of the building work.

Note: If any residential building work is involved, the principal contractor must be the holder of a contractor licence under the *Home Building Act 1989*.

Professional Engineer has the same meaning as in the *NCC*.

Public Place has the same meaning as in the *Local Government Act 1993*.

Road has the same meaning as in the *Roads Act 1993*.

SEE means the final version of the Statement of Environmental Effects lodged by the *Applicant*.

Site means the land being developed subject to this consent.

NSLEP 2013 means *North Sydney Local Environmental Plan 2013*

NSDCP 2013 means *North Sydney Development Control Plan 2013*

Work for the purposes of this consent means:

- the use of land in connection with development,
- the subdivision of land,
- the erection of a building,
- the carrying out of any work,
- the use of any site crane, machine, article, material, or thing,
- the storage of any waste, materials, site crane, machine, article, material, or thing,
- the demolition of a building,
- the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,
- the delivery to or removal from the *site* of any machine, article, material, or thing, or
- the occupation of the *site* by any person unless authorised by an *occupation certificate*.

Note: **Interpretation of Conditions** - Where there is any need to obtain an interpretation of the intent of any condition this must be done in writing to Council and confirmed in writing by Council.

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A. Conditions that Identify Approved Plans

Development in Accordance with Plans/Documentation

- A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions of this consent.

Plan No.	Rev	Description	Prepared by	Dated
GL+ L1-SK01-B	-	Ground Level 1 - Plan	Futurespace	27/05/2022

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

Time Limited Consent

- A2. Development consent is granted for use of the premises as an education establishment, in conjunction with the use of Marist School at 270 Miller Street, North Sydney for up to five years from the date of commencement of this consent in accordance with S.4.20 of the EP&A Act 1979. At the end of five (5) years, use of the premises as an educational establishment is to cease and the premises reverted to commercial premises.

Nothing in this consent prevents the applicant or any other person relying on this consent from seeking an extension of time. Any extension of time must have regard for the impact of the total school population at the Marist Catholic College.

(Reason: To clarify the terms of consent, in accordance with the detail provided in the Statement of Environmental Effects)

F. Prescribed Conditions imposed under EP&A Act and Regulations and other relevant Legislation

Occupation Certificate

- F1. A person must not commence occupation or use of the whole or any part of a new building (*new building* includes an altered portion of, or an extension to, an existing building) unless an Occupation Certificate has been issued in relation to the building or part. Only the Principal Certifying Authority appointed for the building work can issue an Occupation Certificate.

(Reason: Statutory)

I. Ongoing/Operational Conditions

Student Access to Site

- I1. No pickup or drop off is permissible on site. Students are required to commence and complete their school day from the main campus at No.270 Miller Street, North Sydney.

(Reason: To ensure that amenity of the surrounding locality is maintained)

Student Population

12. Nothing in this consent permits an increase in the total student population at the main school campus at No.270 Miller Street, North Sydney.

(Reason: To ensure that amenity of the surrounding locality is maintained)

Hours of Operation

13. The hours of operation are restricted to:

Monday to Friday: 8.00am - 6.00pm.
Saturday: Closed
Sunday: Closed
Public Holiday: Closed

Upon expiry of the permitted hours:

- (a) all educational activities must immediately cease;
(b) no person shall be permitted entry; and

(Reason: To ensure that amenity of the surrounding locality is maintained, and hours of operation are consistent with those in surrounding locality)

Operation of Premises in Conjunction with Main School Campus

14. The premises is to be managed and operated at all times in conjunction with the main campus of Marist School at 270 Miller Street North Sydney, and in accordance with the following restrictions:

- i. The premises is to accommodate Year 11 and Year 12 students only;
- ii. Students are to arrive and depart school from the main school campus at the start and end of each school day;
- iii. The classrooms are to be subject to a managed timetable set by the school management;
- iv. The classrooms are to have a maximum capacity of 122 students with 10 staff on premises;
- v. Students are to enter and exit the building through the dedicated ground floor foyer and entrance from the Berry Street frontage of the site; and
- vi. There is no on-site drop-off of students permitted;

In the event of any inconsistency between the requirements of this consent and any consent applying to No. 270 Miller Street, North Sydney, the requirements of this consent shall prevail.

(Reason: To manage traffic and pedestrian movement and to ensure the use of the premises remains ancillary to the main school campus and is not subsequently used by other education providers without separate and prior consent)