

**Original signed by Kim Rothe on 13/10/2020**  
**Date determined 13/10/2020**  
**Date operates 12/10/2020**  
**Date lapses 12/10/2025**

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KIRRIBILLI NSW 2061

D128/20  
KRR(CIS)

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

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**Development Application Number:** 128/20

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**Land to which this applies:** 10-12 Miller Street, North Sydney (Also known as 181  
Blues Point Road, North Sydney  
Lot No.: 6, DP: 37896

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**Applicant:** Anna Ciliberto, Ciliberto Architecture Pty Ltd

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**Proposal:** To increase maximum student enrolments of the  
educational establishment from 30 students to 60 students.

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**Determination of Development  
Application:** Subject to the provisions of Section 4.17 of the  
Environmental Planning and Assessment Act 1979,  
approval has been granted subject to conditions in the  
notice of determination.

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**Date of Determination:** 13 October 2020

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The development application has been assessed against  
the North Sydney Local Environmental Plan 2013 and the  
North Sydney Development Control Plan 2013.

**Reason for approval:** The proposed use of the existing church hall as a school is  
prohibited within land zoned SP2 Infrastructure (Place of  
Public Worship). The applicant has sought and  
previously obtained approval for the use under Clause  
5.10(10) Conservation Incentives of NSLEP 2013 to  
overcome this prohibition for the adjoining building and is  
an ongoing use of the site. The occupation and use as an  
educational establishment of the former residence is  
deemed to be complimentary to the use of the site for the  
Montessori Junior School.

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The subject proposal expands upon the as approved numbers of students and this proposal is not considered to jeopardize the compliance with these provisions.

Having regard to the above, the proposal is considered to be consistent with the objectives and provisions of Clause 5.10 of NSLEP 2013.

The proposal is consistent with the relevant objectives of the Special Uses and Residential zones particularly in terms of maintaining the amenity of the adjoining property given the scale of the proposed use.

Having regard to the provisions of Section 4.15 of the EP&A Act 1979 the application is considered to be satisfactory and therefore can be approved

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**Consent to operate from:** 12 October 2020

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**Consent will lapse on:** 12 October 2025

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**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 by 12 October 2025.

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**How community views were taken into account:**

The owners of adjoining properties and the local community precinct committee were notified of the proposed development for a 14-day period in accordance with section A4 of NSDCP 2013 and Council's Community Engagement Protocol. The notification resulted in one submission.

Submissions raised concerns with concerns about loss of vehicle parking and pedestrian safety.

The potential impacts of the development have been assessed by Council's Traffic Engineer and against Council's traffic controls and found to be supportable in the circumstances.

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**Review of determination and right of appeal:**

Within 6 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.

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

**Endorsed for and on behalf of North Sydney Council**

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Signature on behalf of consent authority  
DAVID HOY  
A/MANAGER DEVELOPMENT SERVICES

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**(i) Conditions**

Consent is granted subject to the following conditions imposed pursuant to Section 4.17 of the Environmental Planning & Assessment Act 1979 (“the *Act*”) and the provisions of the Environmental Planning & 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.	Dated	Issue	Title	Drawn by	Received
AR_DA_100	10 June 2020	00	SITE PLAN	Ciliberto Architecture	17 June 2020

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

**Plans on Site**

A2. A copy of all stamped approved plans, specifications and documents (including the plans, specifications and documents submitted and approved with the Construction Certificate) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

All documents kept on site in accordance with this condition must be provided to any officer of the Council or the certifying authority upon their request.

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

**No Demolition of Extra Fabric**

A3. Alterations to, and demolition of the existing building shall be limited to that documented on the approved plans.

(Reason: To ensure compliance with the approved development)

**No approval for Drop off zone**

A4. The proposed “No Parking kiss & drop” zone in Miller Street is not approved under this consent. The applicant may separately apply to the North Sydney Traffic Committee for changes to the existing on street parking restrictions to support the school during morning and evening transport periods.

The following information is to be included in any application for changes to parking restrictions in proximity to the site including the requirements of condition A5 Below:

a) The “Green travel plan” referred to in the Operational Management Plan must be finalized and implemented to encourage use of public transport and sustainable green travel modes such as cycling, walking and car pooling by students and staff.

- b) That a travel mode survey be undertaken each year for the first 5 years of operation to evaluate the effectiveness of the School's commitment to sustainable transport options.
- c) On-street parking provisions may be reviewed after 5 years, to determine if the on street drop-off and pick-up space is required.
- d) Unless otherwise available, all parking and drop off is to occur wholly within the open car park to the immediate north of the existing school building on 12 Miller Street (AKA 181 Blues Point Road).

(Reason: To clarify changes to parking arrangements may occur outside of DA process and to reinforce existing parking restrictions)

**Operational Plan of Management – Cammeraygal School (10-12 Miller Street, North Sydney)**

A5. Prior to the commencement of the use of the building at No. 10 Miller Street for an educational establishment purposes, the operational plan of management dated 10 June 2020, prepared by Ciliberto and submitted with the development application, is to be updated to incorporate the following specific measures:

1. The Plan of Management to be updated to reflect total student number at 10-12 Miller Street and to clarify that the Plan of Management relates to the whole site AND use of the adjoining car park.
2. The Plan of Management is to specify the uses of the external outdoor spaces at the rear of 10 Miller Street for teaching and quiet activities only. Signage and tactile indicators are to be included around the site detailing to students and staff for the space to be used for quiet space and supervised outdoor teaching only with no active play or “no ball games”. All active play on site is to occur within the approved play area located on the northern side of the former place of public worship building.
3. The Plan of Management is to include a green travel plan to encourage use of public transport and sustainable green travel modes such as cycling, walking and car pooling by students and staff and delete any reference to “kiss & drop” zone and 3 parking spaces to be maintained for use of parents in the adjoining car park.
4. The Plan of Management is to specify specific formal hours of operation for student attendance and maximal hours in which staff may be present on site before and after student operations.
5. Plan of Management is to specify Details of the school administrator including their location off site and relevant contact details.
6. Plan of Management is to specify provision of cleaning management services and hours it occurs.
7. Plan of Management is to clarify the use of air conditioning systems, timers etc.



The school is to operate at all times in accordance with the amended plan of management and all relevant applicable conditions of consent. A copy of the updated Plan of Management is to be submitted to Council for recording and a copy is to be maintained on site at all times.

(Reason: To protect public amenity and ensure a safe operational environment for students, teachers, administrators and the public)

### **Previous Consent**

A6. The increase in student numbers on site is not to be implemented until an occupation certificate is issued for all works approved under DA245/19 is issued and an updated Operational Plan of Management is prepared and submitted to Council.

(Reason: to clarify the terms of this consent)

### **I. On-Going / Operational Conditions**

#### **Number of Students**

I1. The maximum number of students using the subject building shall not exceed **60 children**. Any increase in the number of student shall require the lodgement of a separate development application with Council.

(Reason: To clarify the terms of this consent)

#### **Out of Hours Coaching or Tutoring**

I2. No after hours teaching or coaching permitted, except with separate and further development consent from Council.

(Reason: To clarify the terms of this consent)

#### **Noise from Plant and Equipment C57**

I3. The use of all plant and equipment installed on the premises must not:

a) Contribute an LAeq(15min) which will cause the total LAeq(15min) from all plant and equipment operating contemporaneously on the site or in the strata scheme or in the mixed strata schemes to exceed the RBL by more than 5dB when measured at the boundary of any affected receiver . The modifying factor adjustments in Section 4 of the EPA Industrial Noise Policy shall be applied.

b) Cause “offensive noise” as defined in the *Protection of the Environment Operations Act 1997*.

“affected receiver” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation, schools, hospitals, places of worship, commercial premises and parks and such other affected receiver as may be notified by the Council in writing.

“boundary” includes any window or elevated window of an affected receiver.

Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Noise Policy for Industry published by the NSW Environment Protection Authority.

(Reason: To maintain an appropriate level of amenity for adjoining land uses)

### **Compliance with Acoustic Report**

14. The recommendations contained in the acoustic report prepared by Day Design P/L dated 1 October 2019 must be implemented during use of the development.

The outdoor areas shall not be used for free play activities at any time. The outdoor area is to be used for passive activities only.

There is to be no amplified music or the like in the outdoor area. If there is to be amplified sound, music or the like in the classroom, the windows must be closed during use.

(Reason: To maintain an appropriate level of amenity for adjoining land uses)

### **Noise and Vibration Impact**

15. The on-going use of the premises approved under this consent must comply with all conditions pertaining to noise and vibration specified in this consent.

(Reason: To ensure compliance with the specified levels of noise and vibration and to maintain the amenity of surrounding land uses)

### **Waste Collection**

16. Waste and recyclable material, generated by this premises, must not be collected between the hours of 10pm and 6am on any day.

(Reason: To ensure the amenity of surrounding properties)

### **Daily Cleaning**

17. The proprietor/operator is to ensure that at all times when the premises are open and at the end of each day after the premises have closed, all rubbish including loose papers, cigarette butts, bottles etc which may be left on the subject premises, site or immediately adjacent area is picked up and placed in the proprietor's/operator's rubbish bins.

(Reason: To ensure waste generated by the approved use or activity is properly managed by the person acting upon this consent, to prevent unsightly build up of waste material)

**Delivery Hours**

18. No deliveries, loading or unloading associated with the premises are to take place between the hours of 10pm and 6am on any day.

(Reason: To ensure the acoustic amenity of surrounding properties)