

24 May 2023

Northern Beaches Council
General Manager
PO Box 82
MANLY NSW 1655

Attention: Mr Jordan Davies

Dear Mr Davies

Re: Response to Submissions – DA2023/0020: 48 and 50 Eurobin Avenue, Manly

This letter is written on behalf of Good Samaritan Education, the landowner of 48 and 50 Eurobin Avenue, Manly (the **site**). It relates to Development Application (**DA**) 2023/0020 which proposes to change the use of the site from residential to education, demolish existing structures and install temporary demountable buildings to be used in connection with Stella Maris College (the **College**). The site is to the northwest of the Main College Campus at 52 Eurobin Avenue, Manly.

This letter sets out the applicant's response to the matters raised within the submissions received during the public notification of the DA. It should be read in conjunction with **Appendix A**, a detailed summary and analysis of the submissions. Noting a total of 24 unique submission were received including one (1) submission of support.

Each of the key areas of concerns are outlined below along with the applicant's response to each of those matters.

A. Change of use to educational establishment

The site is located on land zoned R1 – General Residential. Pursuant to Manly Local Environment Plan 2013 (**Manly LEP 2013**), there are a variety of land uses that are permitted within the general residential zone that are not strictly residential, such as child care facilities, places of public worship, recreation facilities (gym) and hostels for example.

Pursuant to State Environmental Planning Policy Transport and Infrastructure 2021 (**Transport and Infrastructure SEPP**), s. 3.36 permits the development of a school on land in a prescribed zone. As the site is in Zone R1, which is a prescribed zone, a school is a permitted use on the site.

The proposed educational use on the site is also entirely consistent with the Zone R1 General Residential objectives which include:

To enable other land uses that provide facilities or services to meet the day to day needs of residents.

Noting that 70% of the students that attend Stella Maris College are located within a 5km radius of the site.

As suggested in a number of submissions, the proposed change of use from residential to educational does not comprise a rezoning of the land. The land will continue to be zoned R1-General Residential.

In addition to this, the College strongly objects to the suggestion that a condition of consent could be imposed restricting the change of use from residential to education to a period of two years. The College has acquired the land to meet its immediate requirement for temporary demountable buildings (in the short term), with a view to using the land to accommodate its medium and longer term needs for improved education facilities in the future.

It is not reasonable to use a time restricted consent to impede the College's legitimate ability to carry out a permitted development on the site, in accordance with the Transport and Infrastructure SEPP Chapter 3. As the proposal directly provides and supports a critical piece of community infrastructure which would provide for the education of children, to meet the day to day needs of residents. It is essential that schools are located within the community ensuring that equitable access to education is provided.

B. School expansion and other opportunities

The College must continue to operate at full capacity within minimal disruption whilst the second stage of the works approved by DA 2014/232 are undertaken. Prior to the lodgement of this DA, the College considered the following possible alternatives to achieve this.

1. Do nothing

In the do-nothing scenario, the existing buildings on the Main College Campus would be retained and there would be no additional classrooms, no additional or improved arts or technology accommodation, science facilities or library facilities.

The College would continue to depend on facilities that are out of date and no longer fit for purpose, and the College would no longer be able to meet the NSW Board of Studies, Teaching and Educational Standards or meet the College's academic and pastoral care program.

This is not an acceptable outcome for the College or the local community it serves.

2. Main College Campus

As stated previously, the Main College Campus has been built haphazardly over a number of years, whilst it has experienced continued demand for school placements. The site contains heritage items, being the Convent of the Good Samaritan and two large Morten Bay Fig Trees. As a result, there is very limited unobstructed space on the Main College Campus to physically locate temporary demountable GLAs. The limited space that is available is used as play/communal space and College assemblies given that the College does not have a multi-purpose hall.

As such, there is no available space on the Main College Campus for the temporary demountable GLAs. There is also no capacity within existing buildings on the Main College Campus to decant the displaced classes.

Given the existing site constraints and the day-to day functionality requirements of the College, the Main College Campus is not able to house the required temporary GLAs.

3. Benedict Campus

The option of locating the temporary demountable GLAs on the Benedict Campus, which is a separate satellite site located at 270 Pittwater Road at Manly, was also explored. The Benedict Campus functions as the Senior hub.

Locating temporary demountable GLAs for junior students on this site is considered to be undesirable as it is not appropriate for junior students to travel between the two school campuses

unaccompanied. This would result in all Year 7 and 8 students and 70% of Year 9 and 10 students (approximately 600 students in total) having to travel on foot between the two campuses regularly to access their required classes.

Further, placing demountable GLAs on the Benedict Campus would result in the loss of on-site staff car parking, increasing demand for on-street parking which would not be a desirable outcome for the local community.

Given these physical, operational and child safety concerns, Benedict Campus is considered to be an unsuitable location for the required temporary GLAs.

4. Reduce the College population

College enrolments are confirmed three years in advance and the College is currently (and will continue to be) operating at full capacity. Lowering the student population of the College temporarily (whilst works take place on the Main College Campus) is not a feasible option. Further, temporarily lowering the College's capacity will only impose a burden onto other schools in the Manly area.

As addressed above, the circumstances for the second stage of works approved by DA 2014/232 are different to the situation when the first stage was completed.

5. Acquire new land

With no viable alternatives to facilitate the construction of the second stage of works approved by DA 2014/232, the College purchased additional land to meet its immediate needs.

The expansion site was purchased more than 8 years ago, with one former owner approaching the College directly and the other selling their land on the open market.

The following two strategies to use the expansion site were explored:

i) Repurpose the existing buildings

The site contains a detached dwelling house (3 bedroom + 1 bathroom) and a two-storey duplex (2 x 2 bedroom + 1 bathroom). These existing buildings are suitable for use as GLAs given their inadequate shape, size, layout and functionality. The existing buildings do not comply with the BCA requirements (egress and fire) or access requirements for an educational use. The existing buildings also lack suitable internal amenity and connectivity for students and staff.

The College has an immediate short term need to provide eight GLAs (in lieu of the lost 11 GLAs on the Main College Campus, whilst works take place). Large format flexible floor spaces are required to house the eight class groups. An accessible, single level structure is also preferred to eliminate the need for a lift to provide equitable access. The buildings on the site are therefore not suitable for the required purpose.

i) Exempt and complying development

The Transport and Infrastructure SEPP s. 3.37 permits the installation of two storey portable classrooms as development permitted without consent on land within the boundaries of an existing school (subject to complying with the applicable development standards).

The Transport and Infrastructure SEPP s. 3.39 permits the installation of one storey portable classrooms as exempt development on land within the boundaries of an existing school for a period of 48 months, subject to satisfying the applicable standards.

As there is no land on the Main College Campus that can accommodate the temporary GLAs (see above) these approval pathways were not available.

As such, the College resolved to submit a DA to change the use of the site and included the installation of temporary GLAs in the description of development to provide a clear indication of their plans for the land.

ii) DA for temporary demountable building

The proposed single storey temporary GLA structure (with minor non-complying residential side setbacks) was considered a more favourable outcome for the streetscape and adjacent neighbours over a two-storey demountable structure with compliant residential side setbacks. Compared with a two-storey building, the single-storey structure has limited visibility within the streetscape and has reduced solar, visual impacts and acoustic impacts for the adjoining residents.

A complying two-storey structure would also necessitate the installation of a lift to provide equitable access, and given the temporary nature of the proposal, a single storey structure was deemed more appropriate given the circumstances.

Therefore, the proposal is considered to be the most appropriate solution and response to the College's existing site conditions and immediate needs, whilst also preserving the amenity of adjacent neighbours.

The impact to the streetscape as a result of the College expansion is discussed at **Point D** below.

C. Non-compliance with the controls

The College has sourced the most appropriate temporary structure (from the limited choice available), that addresses the College's immediate needs for eight GLAs whilst also protecting the amenity of adjacent properties. In this regard:

- The proposal is for an educational establishment/school use, which is permitted on the site, and has different needs and requirements compared to a residential dwelling
- The proposed use of the site is generally limited to school days during school hours only
- The proposal does not seek to increase the capacity of the College or change its existing operating conditions
- The temporary building will be in place for a period of 24 months only
- The temporary building is only one storey high, as such it will not result in adverse building bulk impacts for the adjoining to the side and rear. Existing fencing between the site and the residential properties to the rear is also maintained along with supplementary planting to preserve residential amenity.
- A single storey building is considered to be more favourable from an urban design perspective in comparison with a compliant two-storey building, which would have been highly visible within the streetscape.
- The proposal will not result in any significant adverse amenity impacts for adjoining and nearby residents as outlined within the Statement of Environmental Effects (SEE) submitted in support of the proposal.

For the reasons outlined above, the minor departure from the floor space ratio (FSR) standard and the residential setback controls are considered reasonable in this instance, given the nature of the proposal (being an educational use), its temporary occupation by demountable GLAs (being only 24 months) and the minimal and acceptable amenity impacts on the surrounding area.

Possible future development on the site is discussed at **Point F**.

D. Negative impact on the streetscape

The College has been operating from this location for 93 years. The College is therefore an important and integral part of the streetscape and character of the area. It also provides a valuable and critical service to the local community, being the education of children.

The Main College Campus is the visually dominant feature within Eurobin Avenue at its southern end; particularly its large corner block setting, mixture of new and old three storey educational buildings and its prominent colour scheme. These attributes make the College a key and dominant feature within the street.

As such, the proposed minor expansion of the Main College Campus to the north is not out of character with the existing streetscape. The proposal is a minor and modest extension of the College's existing frontage to Eurobin Avenue comprising a distance of approximately 30m, which does not in any way distract or diminish from the heritage significance of the northern side of Eurobin Avenue (as outlined within the HIS).

The proposal does not comprise a new school and the site is not an isolated site. Instead, the proposal is a minor extension to the existing frontage of the Main College Campus, and it is entirely fitting and appropriate given the prevailing and long-standing educational character of the southern side of the street.

Figures 1 and 2 demonstrates this, highlighting the prevailing mixed-use character of the southern end of Eurobin Avenue characterised by educational use on the southern side and residential development on the northern side.

Figure 2 also demonstrates that the existing Eurobin Avenue brick wall frontages of the site, which are required to be removed and replaced with suitable fencing in line with the security requirements of a school use, will present as a seamless extension to the existing College frontage, with the new fencing designed to match the existing fencing to the College grounds.

E. Adverse traffic impacts

The proposal will not generate any increase in traffic or parking demand as there will be no increase in the student or staff population of Stella Maris College as a result of this proposal.

The proposal is for the use of the site by the College, in connection with the adjacent Main Collage Campus, to house temporary demountables whilst the new Creative Arts building is completed.

The College's current operation is restricted and conditioned under DA 2014/232, which permits a maximum of 1,150 students across the sites (Main Campus and Benedict Campus).

This proposal does not seek to change that. The College also has no plans (short or long term) to increase its capacity.

Further, as stated above, the College cannot increase its student capacity under a CDC. A DA is required to change the operating conditions of the College.

As such, there will be no change to the current traffic and parking conditions as a result of this proposal.



Figure 1: Photographs of the northern side of Eurobin Avenue (characterised by residential buildings/uses)

Figure 2: Photographs of the southern side of Eurobin Avenue (characterised by educational buildings/uses)

F. Uncertain future, no master plan

Concern has been raised by the local community about possible future development on the site, once the Creative Arts building is complete.

Firstly, the demountable buildings will be removed and the site would be converted to open space to be used as intermittent play space. Any future development beyond that would be required to obtain the necessary approvals.

At the time of preparing this DA, the College has not determined the proposed longer-term use for the site, given the significant capital cost involved in purchasing these new sites and also the cost of undertaking the construction of the new Creative Arts Building.

However, when the College is in a position to explore future potential opportunities, given the strong community interest in this DA, the College will consult widely with the local community to ensure the best outcome not only for the College but for the surrounding residents. One priority issue to be further explored includes the provision of additional on-site car parking.

To alleviate some uncertainty surrounding future development on the site, some key things to note for a potential complying development certificate (CDC) or DA are addressed below.

- As required by the Transport and Infrastructure SEPP, s. 3.40(7), any future complying development on the site cannot contravene any existing condition of consent, such as hours of operation, noise, car parking, vehicular movement, traffic generation, loading, waste management, landscaping or student or staff numbers. As such, development consent is required to change any of the College's operating conditions, for example, there can be no increase to the student or staff population through a CDC Development consent is also required to provide basement car parking.
- Possible future built form outcomes under the complying development provisions are also limited. The size of the site, its orientation, adjacent zoning and the existing built form of the Main College Campus are all key considerations. Whilst complying development under the Transport and Infrastructure SEPP allows development up to a height of 12m, it would not be achievable on the site given the existing development and the levels of the adjacent Scholastic Building.

Figures 3 and 4 illustrate two comparative concepts being a possible CDC scheme under Chapter 3 educational standards of the Transport and Infrastructure SEPP and a possible residential flat building (RFB) DA under the residential development standards contained in Manly LEP 2013 and Manly Development Control Plan 2013 (**Manly DCP 2013**).

The two comparative concepts demonstrate that the permissible and achievable concepts for an educational building and a RFB has a similar bulk and scale.

G. Loss of housing

As discussed at **Point C** above, every possible alternate solution was explored including retaining the two houses.

However, the existing buildings do not comply with the BCA requirements (egress and fire) or access requirements for an educational use. The existing buildings also lack suitable internal amenity and connectivity for students and staff.

As discussed at **Point H** below the two dwellings to be demolished are not heritage significant, and their loss does not in any way diminish or detract from the heritage items on the opposite side of the street.

Therefore, the proposal is considered to be the most appropriate solution and response to the College's existing site conditions and immediate needs, whilst also preserving the amenity of adjacent neighbours.

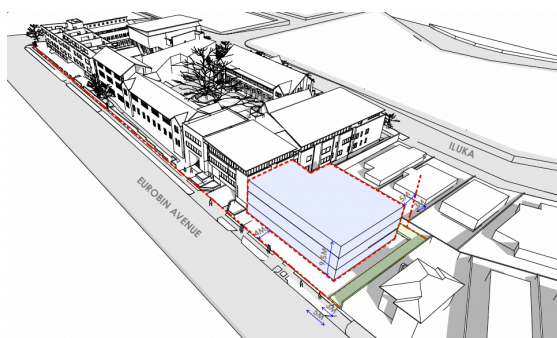
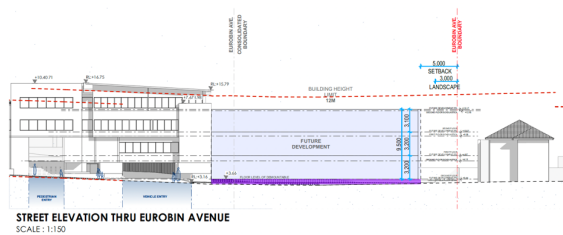
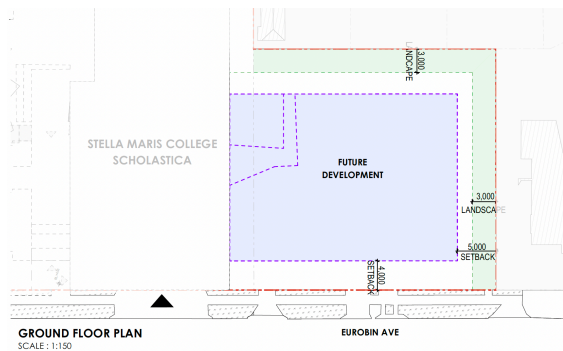


Figure 3: Possible CDC educational building on the site

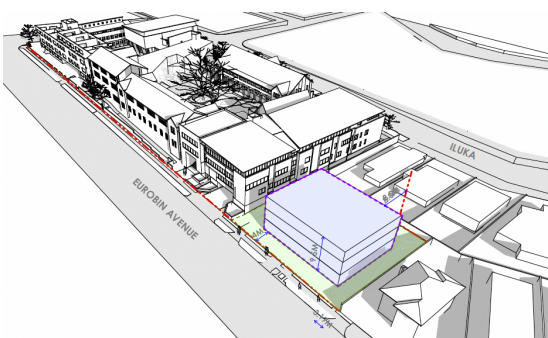
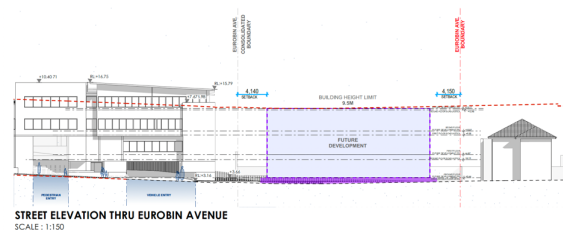
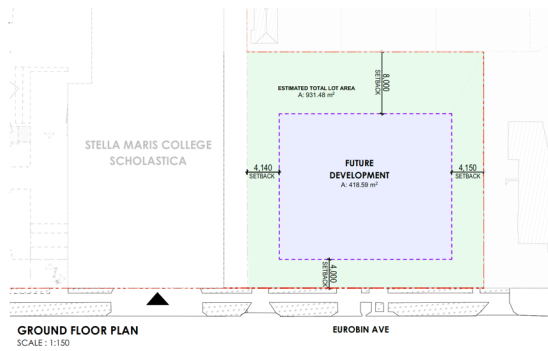


Figure 4: Possible DA residential flat building on the site

H. Heritage impacts

It is acknowledged that the northern side of Eurobin Avenue, comprising a row of two storey residential dwellings, are heritage listed pursuant to Manly LEP 2013. However, the two dwellings located on the site proposed to be demolished (on the southern side of Eurobin Avenue), are not identified as heritage items.

The Main College Campus is a heritage item pursuant to Manly LEP 2013, in particular the Convent of the Good Samaritan and the two large Moreton Bay Fig Trees in the centre of the Main College Campus. As such, the two heritage significant elements within the street, being the northern side of Eurobin Avenue and the Main College Campus, have co-existed within the streetscape for close to 100 years.

In response to local community concern regarding the impact the proposal would have on heritage items within the vicinity of the site, John Oultram Heritage and Design prepared a HIS assessing the proposal against the relevant heritage provisions in Manly LEP 2013. The HIS concluded that:

Based on the assessment, we consider that there are no heritage considerations that would preclude the demolition of the buildings on the subject sites. They form part of the Inter War development across the Manly City Estate that was a common pattern for Manly and other

beachside suburbs as they moved from being a destination for day trippers to more permanent settlement.

To the north of the subject sites is long row of two storey Inter War apartments. There is no listing sheet for the group items on the SHI but the group signals the inter war development of the area for apartments (that was the common development pattern in the street) following the re-subdivision of the earlier estates.

As discussed above, we consider that the current buildings on the subject site play a limited role in the setting of the items and this is largely by proximity and them being developed during the same period.

The development proposal is low scale and will read as part of the Stella Maris site extending its site boundaries to the west alongside the modern two storey building to the west of the school site.

We consider that the proposal will have no impact on the setting or significance of the items.

I. Tree removal

The proposal does not include the removal of any existing trees on site, noting that

- A number of trees are located on the site and in the vicinity of the proposed works, however these existing trees are exempt species that can be removed without approval. More information is provided in the Arborist Statement and site plan which highlight the exempt tree species on the site that will be removed prior to the installation of the demountable building.
- A separate Tree Application (TA/2022/0796) was submitted to Council in relation to the *Agonis Flexuosa* to the rear of 48 Eurobin Avenue and the removal of this tree was approved on 13 December 2022.

J. Noise impacts

The Acoustic Report was updated to address potential noise impacts from the use of the site as an intermittent play space once the temporary demountable building is removed. The report confirms that noise emissions from students using the land as an outdoor area will comply with relevant standards to all of the nearest noise sensitive receivers subject to the following mitigation measures:

- The installation of a palisade fence on the frontage and a 1.8m boundary fence to the north-west and south-west boundaries
- Restricting the number of outdoor students to 100 at time.

A condition of consent could be imposed requiring compliance with the recommendations of the Acoustic Report.

K. Construction impacts

A number of submissions raised concern about future potential construction impacts as a result of the proposal, and also the poor experience they had with the previous contractors when the Scholastica building was completed.

This has been noted and acknowledge by the College, and when contractors are engaged this will be key consideration of the appointment.

Prior to commencing any building works on the site, all conditions of consent will need to be complied with.

L. Inadequate landscaping

The use of the site by the College has certain functionality requirements, including teaching space, high circulation paths, and future open space, children safety is also a concern, as such the existing and

proposed supplementary planting (comprising location, number of plants and species choice) are all very important in respect to the use and functionality of schools.

Every effort has been made to maintain the existing character of the site whilst balancing the needs of the College.

M. Flood impacts

The site is affected by flooding, appropriate measures have been adopted to ensure the safety of the College. Refer to Civil Design Report (submitted previously).

N. Light spill

The proposed temporary structure will be used during standard school hours only.

The proposal does not include any external lighting.

It is noted, that one of the submissions raised concern about the Main Collage Campus leaving its lights on overnight. This Collage has a policy, that all lights are turned off at the end of the day, with the exception of safety motion sensor lighting. However, there may be times where the lights are on for cleaning, parent nights, or occasional after school activities.

O. Loss of solar access

The proposal will not affect solar access to more than one third of the existing sunlight accessing any of the surrounding properties in particular 4 and 6 Iluka Avenue midwinter.

In addition, the proposal has no impact on any north facing windows of surrounding properties. Consistent with Section 3.4.1.1 and 3.4.1.2 of Manly DCP 2013.

The proposal also complies with Section 3.40(5) and Schedule 6 Overshadowing Standard of the Transport and Infrastructure SEPP.

Noting that the proposed structures are temporary and will only be in place for a period of 24 months, beyond that the site will be converted to intermittent play space.

P. Privacy impacts

The single storey building has limited openings in its north-west and south-east elevations.

Existing boundary fencing is to be retained to the north-west and to south-east of the site along with additional supplementary planting which will protect the privacy of the adjacent residents.

School uses (existing) adjoin the site to the east, and no change is proposed to the student and staff population.

The use of the site will be limited to standard school hours, with students supervised by school staff at all times.

Given these circumstances, the visual privacy of the adjacent residential dwelling would not be unreasonably impacted by the proposal.

We trust that Council will consider this additional and amended information in its assessment of D/2023/0020.

Please do not hesitate to contact the undersigned (0419 249 467) should you require any additional information.

Yours sincerely



Kyeema Doyle - Senior Planner