

## ORDER

### COURT DETAILS

|             |                                                      |
|-------------|------------------------------------------------------|
| Court       | <b>LAND AND ENVIRONMENT COURT OF NEW SOUTH WALES</b> |
| Division    | Class 1                                              |
| Registry    | Level 4, 225 Macquarie Street, Sydney                |
| Case number | 10778 of 2014                                        |

### TITLE OF PROCEEDINGS

|            |                                            |
|------------|--------------------------------------------|
| Applicant  | <b>Sydney Anglican Schools Corporation</b> |
| Respondent | <b>Warringah Council</b>                   |

### DATE OF ORDER

|                    |             |
|--------------------|-------------|
| Date made or given | 7 May 2015  |
| Date entered       | 28 MAY 2015 |

### TERMS OF ORDER

The Court notes that the parties have reached agreement after a conciliation conference held pursuant to s 34 of the *Land and Environment Court Act 1979*, presided over by Senior Commissioner Moore on 23 February, 25 March and 1 May 2015, as to the terms of a decision in the proceedings that would be acceptable to the parties (being a decision that the Court could have made in the proper exercise of its functions) as set out in the agreement between parties dated 7 May 2015 and executed by the applicant's and by the respondent's legal representatives.

By consent, the Court makes the following orders:

1. The appeal in respect of Lot 2112 in DP 752038 being land known as 210 Headland Road, Dee Why, is upheld; and
2. DA 2013/1525, for the proposed alteration and additions to an Educational Establishment on Lot 2112 in DP 752038, is approved subject to conditions contained in Annexure "A".



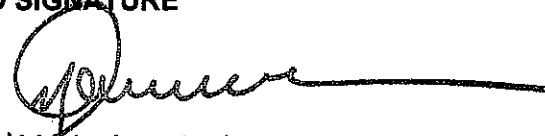
**SEAL AND SIGNATURE**

Court seal

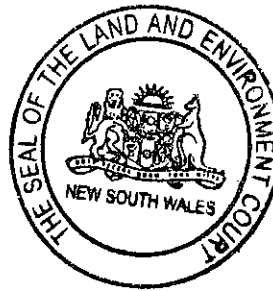
Signature

Capacity

Date

  
Maria Anastasi  
Assistant Registrar

28 MAY 2015

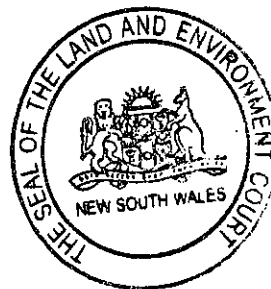


**NOTICE**

Subject to limited exceptions, no variation of a judgment or order can occur except on application made within 14 days after entry of the judgment or order.

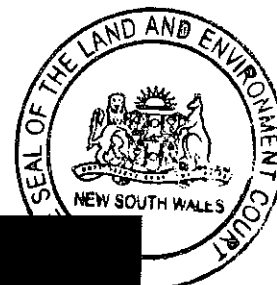
**PERSON PROVIDING DOCUMENT FOR SEALING UNDER UCPR 36.12**

|                                |                                                        |
|--------------------------------|--------------------------------------------------------|
| Name                           | <b>Sydney Anglican Schools Corporation</b> , applicant |
| Legal representative           | Maureen Barbara Peatman, Hunt & Hunt                   |
| Legal representative reference | MBP/HAK: 9583651                                       |
| Contact name and telephone     | Maureen Peatman, 9391 3252                             |
| Contact email                  | mpeatman@hunthunt.com.au                               |



## ANNEXURE "A"

### CONDITIONS OF DEVELOPMENT CONSENT



|                                        |                                                           |
|----------------------------------------|-----------------------------------------------------------|
| <b>Application Number:</b>             | DA2013/1525                                               |
| <b>Land to be developed (Address):</b> | Lot 2112 DP 752038<br>210 Headland Road DEE WHY           |
| <b>Development:</b>                    | Alterations and additions to an Educational Establishment |

### DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

#### 1. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

##### a) Approved Plans

| <b>Architectural Plans - Endorsed with Council's stamp</b> |               |                                  |
|------------------------------------------------------------|---------------|----------------------------------|
| <b>Drawing No.</b>                                         | <b>Dated</b>  | <b>Prepared By</b>               |
| Site Plan A-02 Revision A                                  | December 2013 | Tonkin Zulaikha Greer Architects |
| Level 2 Plan A-05 Revision A                               | December 2013 | Tonkin Zulaikha Greer Architects |
| Sections and Elevations A-06                               | December 2013 | Tonkin Zulaikha Greer Architects |
| Material and Finishes Schedule                             | December 2013 | Tonkin Zulaikha Greer Architects |

| <b>Reports / Documentation – All recommendations and requirements contained within:</b> |                  |                                             |
|-----------------------------------------------------------------------------------------|------------------|---------------------------------------------|
| <b>Report No. / Page No. / Section No.</b>                                              | <b>Dated</b>     | <b>Prepared By</b>                          |
| Traffic Management Plan 14761                                                           | April 2015       | Varga Traffic Planning                      |
| On-Site Parking Diagram A-07                                                            | December 2013    | Tonkin Zulaikha Greer Architects            |
| Acoustic Report<br>TZG2146.0004.Rep.131210                                              | 10 December 2013 | Acoustic Studio                             |
| Bushfire Hazard Assessment<br>Report 140576                                             | 6 December 2013  | Building Code and Bushfire Hazard Solutions |

|                                              |                  |                |
|----------------------------------------------|------------------|----------------|
| Geotechnical Assessment Report<br>25968Z3rpt | 27 November 2013 | JK Geotechnics |
| Access Review Report                         | 5 December 2013  | Funktion       |

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) No construction works (including excavation) shall be undertaken prior to the release of the Construction Certificate.

d) The development is to be undertaken generally in accordance with the following:

| <b>Construction and Waste Management Plan</b> |                  |                                  |
|-----------------------------------------------|------------------|----------------------------------|
| <b>Drawing No.</b>                            | <b>Dated</b>     | <b>Prepared By</b>               |
| Construction Management Plan CM-01            | 10 December 2013 | Midson Group                     |
| Waste Management Plan                         | December 2013    | Tonkin Zulaikha Greer Architects |

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

## 2. **Compliance with Other Department, Authority or Service Requirements**

The development must be carried out in compliance with the following:

| <b>Other Department, Authority or Service</b> | <b>eServices Reference</b>                      | <b>Dated</b>    |
|-----------------------------------------------|-------------------------------------------------|-----------------|
| NSW Police                                    | Response NSW Police Local Area Command Referral | 24 January 2014 |
| NSW Rural Fire Service                        | Response NSW RFS Referral                       | 6 February 2014 |

(NOTE: For a copy of the above referenced document/s, please see Council's 'E-Services' system at [www.warringah.nsw.gov.au](http://www.warringah.nsw.gov.au))

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other Department, Authority or Body's. (DACPLB02)

## 3. **Prescribed Conditions**

(a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

(b) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:



- (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
- (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

(c) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (i) protect and support the adjoining premises from possible damage from the excavation, and
- (ii) where necessary, underpin the adjoining premises to prevent any such damage.
- (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative Requirement (DACPLB09)

#### 4. General Requirements

(a) Unless authorised by Council:

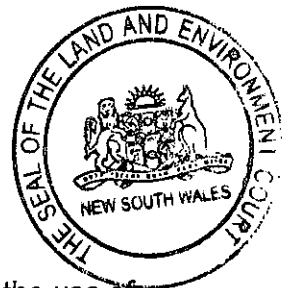
Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

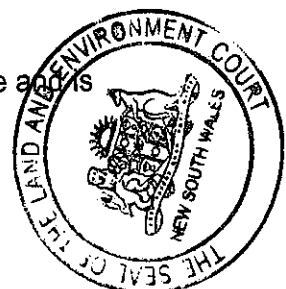
Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).



- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) All sound producing plant, equipment, machinery or fittings and the use will not exceed more than 5dB (A) above the background level when measured from any property boundary and/or habitable room(s) consistent with the Environment Protection Authority's NSW Industrial Noise Policy and/or Protection of the Environment Operations Act 1997.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
- i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is



- dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

(l) Any Regulated System (e.g. air-handling system, hot water system, a humidifying system, warm-water system, water-cooling system, cooling towers) as defined under the provisions of the Public Health Act 2010 installed onsite is required to be registered with Council prior to operating.

Note: Systems can be registered at [www.warringah.nsw.gov.au](http://www.warringah.nsw.gov.au)

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

## FEES / CHARGES / CONTRIBUTIONS

### 5. Policy Controls

#### Warringah Section 94A Development Contribution Plan

The proposal is subject to the application of Council's Section 94A Development Contributions Plan.

The following monetary contributions are applicable:

| Warringah Section 94 Development Contributions Plan            |           |           |
|----------------------------------------------------------------|-----------|-----------|
| Contribution based on a total development cost of \$ 1,220,000 |           |           |
| Contributions                                                  | Levy Rate | Payable   |
| Total Section 94A Levy                                         | 0.95%     | \$ 11,590 |
| Section 94A Planning and Administration                        | 0.05%     | \$ 610    |
| Total                                                          | 1%        | \$ 12,200 |

The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index). Please ensure that you provide details of this Consent when paying contributions so that they can be easily recalculated.

Reason: To provide for contributions in accordance with the Warringah Section 94A Development Contributions Plan 2012.





## 6. Bonds

### Security Bond

A bond (determined from cost of works) of \$2,000.00 and an inspection fee in accordance with Councils Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection)

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate protection of Councils infrastructure.  
(DACENZ01)

## CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

### 7. Compliance with Standards

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

### 8. Sewer / Water Quickcheck

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to works commencing to determine whether the development will affect any Sydney Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.
- Or telephone 13 20 92.

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACPLC12)



## CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

### 9. Maintenance of Road Reserve

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: Public Safety. (DACENE09)

## CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

### 10. Removal of All Temporary Structures/Material and Construction Rubbish

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, temporary fences and the like associated with the proposal are to be removed from the site.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure bushland management. (DACPLF01)

### 11. Fire Safety Matters

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and the NSW Fire Brigade.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Interim / Final Occupation Certificate.

Each year the Owners must send to the Council and the NSW Fire Brigade an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000. (DACPLF07)

### 12. Line Marking

A 1.5m wide pedestrian zone is to be line marked along the northern side of delivery space No.15 in the basement parking area, as shown on Level 2 Plan A-05 Revision A dated December 2013 drawn by *Tonkin Zulaikha Greer Architects*. This vehicle space is to signposted for "Deliveries"

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: Safety. (DACPLFPOC1)



### 13. Bicycle Racks

Bicycle racks are to be provided within the school grounds for students who ride to school, as required.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure that adequate facilities to service the development are provided on site. (DACPLFPOC2)

## ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

### 14. Allocation of Spaces

Car parking spaces provided shall be provided, made accessible and maintained at all times. The spaces shall be allocated as follows:

104 car spaces for Staff:- within the multi level carpark fronting Tango Avenue;  
14 car spaces for Staff - within the basement carpark fronting Headland Road;  
10 car spaces for Students:- within the two (2) outdoor parking area fronting Headland Road;  
2 disabled persons parking spaces (general use):- within the carpark adjacent the main entry fronting Headland Road; and  
1 carspace for School visitors / deliveries, adjacent the reception entry / lift access carpark.  
1 car space for school deliveries within the undercroft carpark.

All the above parking spaces are to be available for car parking needed during 'special events' run by the school. In addition to this, during 'special events' the oval is also to be made available for 'overflow' carparking unless otherwise unsuitable due to natural rainfall.

No car parking spaces may be used for storage of miscellaneous items or converted for other uses, contrary to the approved plans.

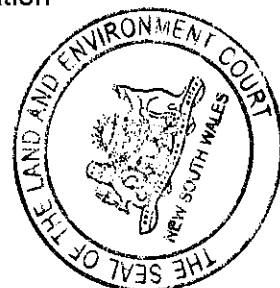
Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure that adequate parking facilities to service the development are provided on site. (DACPLG01)

### 15. Visitors Sign

A sign, legible from the street, shall be permanently displayed to indicate that visitor / delivery parking is available on the site for the visitor parking adjacent the main reception entry and the undercroft carpark in Headland Road.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.



**Reason:** To ensure that visitors are aware that parking is available on site and to identify those spaces to visitors. (DACPLG04)

**16. Traffic Management Plan**

The school Traffic Management Plan, dated April 2015, is to be fully implemented and properly managed to ensure compliance with that plan, as approved.

Reason: Compliance (DACPLGOG3)

**18. Kerbside Parking Zone – Headland**

If it is intended to extend the kerbside parking, then such extension of the pick-up/set down area in Headland Road will require a submission to the Warringah Local Traffic Committee for consideration and approval. Should the approval of the Local Traffic Committee be granted, then any signposting, as detailed in the approval, is to be installed at no cost to Council

Reason: Traffic planning and management



**Tim Moore**  
Senior Commissioner

