

**JOINT REGIONAL PLANNING PANEL
SYDNEY WEST REGION**

JRPP No	2012SYW018
DA Number	DA0587/11
Local Government Area	Ku-ring-gai
Proposed Development	New senior centre for Knox Grammar School
Street Address	1499, 1495 Pacific Highway & 11 - 17 Woodville Avenue, Wahroonga
Applicant/Owner	Knox Grammar School C/- Andrew Graham Epm Projects P/L Po Box 124 ST LEONARDS NSW 2065 The Uniting Church of Australia Prop Trust (owner)
Number of Submissions	Four (4)
Recommendation	Refusal
Report by	Grant Walsh, Executive Assessment Officer

Assessment Report and Recommendation

Primary Property	1499, 1495 Pacific Highway & 11-17 Woodville Avenue, Wahroonga
Lot & DP	10//875542, 1//934321, 1//204768, 2//204768, 1//928128, 3//567065, 1//935156, 5//11709, 6//11709, 7//11709
Development application no.	DA0587/11
Ward	Comenarra
Date lodged	3 November 2011
Estimated cost of works	\$14,287,756.00
Issues	Impacts on Sydney Blue Gum Endangered Ecological Community, adverse impact on adjoining heritage item at 2 Borambil Street and the Draft HCA pursuant of DLEP 218, height, bulk and scale, insufficient setbacks to Borambil Street
Submissions	Yes
Land & Environment Court	N/A

LEGISLATIVE REQUIREMENTS:

Zoning	Part residential 2 (c2) and part Special Uses 5(a) (School)
Permissible under Relevant legislation	KPSO, SEPP (Infrastructure) 2007 SEPP 55 SEPP (Infrastructure) 2007 SREP 20 Hawkesbury Nepean River KPSO DCP 31 - Access DCP 40 – Waste Management DCP 43 – Car Parking DCP 47 – Water Management DCP 56 – Notification Schools Development Control Code
Integrated development	NO

HISTORY

Site and development application history:

The subject site has been used as an educational establishment since 1924. Prior to this date it appears the site was used for residential purposes with the inclusion of small agricultural plots.

Recent development applications for the site are as follows:

- DA0927/06 – Piping and covering of an existing open stormwater channel, new service road fencing, floodlighting and an electrical scoreboard. Approved by Council on 20/6/2007.
- DA0730/08 – New residential boarding facilities, first aid clinic and laundry. withdrawn on 23/10/08.
- DA0697/08 – Refurbishment of 4 existing tennis courts, carpark extension, and new play area. Approved by Council on 23/12/2008.
- DA1283/08 - Construction of a scoreboard on Knox Grammar School main oval. Approved by Council on 13/2/2009.
- DA1296/08 - Conversion of lecture theatre into 3 classrooms. Approved by Council on 17/3/2009.
- DA0902/10 – Demolition of existing fence and construction of a new sandstone and metal fence on Pacific Highway. Approved by Council on 24/1/2011.

An on-site pre DA-lodgement meeting was held with the applicant and their representatives on 23 August 2011. The minutes of the meeting were sent to the applicant on 13 September 2011 and identified the following key issues:

- impacts on Blue Gum High Forest (BGHF) Critically Endangered Ecological Community (CEEC)
- impact on existing Sydney Blue Gums
- concerns with proposed front setbacks and potential bulk and scale impacts of the proposal when viewed from Borambil Street
- impacts on adjoining heritage items due to scale when viewed from Borambil Street

The subject application was lodged on 3 November 2011 and subsequently notified for a period of 30 days.

A meeting was held at Council offices on Thursday 15 December 2011 at which Council Officers raised concerns with height and setbacks, impacts on adjoining heritage items, impacts of the Sydney Bluegum High Forest (CEEC), and insufficient space for student play area. These issues were sent to the applicant in writing on 10 January 2012. On 19 January 2012 an extension of 28 days was provided to the applicant to submit additional information. The applicant submitted additional information on 13 February, 20 February and 23 March 2012, however, no amendments were made to the plans to address Council's concerns. Further justification in relation to the current proposal was submitted. A further meeting was held with the applicant and Council representatives on 5 March 2012.

THE SITE AND SURROUNDING AREA

The site

Zoning:	Part 2(c2) Residential and part Special Uses 5 (a) – (School)
Visual Character Study Category:	1920-1945
Lot/DP Number:	10//875542, 1//934321, 1//204768, 2//204768, 1//928128, 3//567065, 1//935156, 5//11709, 6//11709, 7//11709
Area:	68,032m ²
Cross Fall:	East/west
Stormwater Drainage:	Pipe to easement
Heritage Affected:	No
Required Setback:	N/A
Integrated Development:	No
Bush Fire Prone Land:	No
Endangered Species:	YES (Sydney Blue Gum)
Urban Bushland:	No
Contaminated Land:	Inadequate investigation

The total area of the combined site is of 68032m². The site is an irregular lot shape having frontages to the Pacific Highway (west), Borambil Street (south and west) Woodville Avenue (north) and abutting the North Shore Railway line to the east. The site currently contains the Knox Grammar School which includes approximately 16 buildings and outdoor facilities such as tennis courts, rugby field, quadrangle, courtyards and associated carparking. It is noted the area of the site which is to be developed is zoned Special Uses 5 (a) – (School).

SURROUNDING DEVELOPMENT

Development to the south and east of the proposal consists of low density residential dwellings which are generally one and two storeys in height. Additionally, the North Shore Rail line including Warrawee Station is located to the east of the site. It is noted that heritage Items are located on the properties to the east being 2 and 6 Borambil Street and 32 and 34 Heydon Street. Development to the west of site (on the opposite side of Pacific Highway) includes low and high density residential dwellings noting that heritage Items are located at 1485-1493 and 1574 Pacific Highway. To the north of the site are low density residential dwellings of one and two storeys in height.

THE PROPOSAL

Development consent is sought for a new senior centre and associated works:

The existing demountable classrooms are proposed to be replaced with a part 4 storey / part 5 storey building which includes 22 classrooms and a total capacity for 550 students. The development also incorporates ancillary rooms such as a lecture theatre, café, storage rooms, plant rooms, senior's courtyard and staff rooms.

The proposal includes a large entry tower with associated spire. Excavation will be required to a maximum depth of approximately 4m along the southern side of the site. The proposal is to be sited toward the eastern boundary of the site facing Borambil Street and generally located in the area that is east of the existing science building, north of the existing tennis court/car park and south of the Knox 1 oval.

It is noted that the overall student numbers for the school will not be increased as part of this proposal.

COMMUNITY CONSULTATION

In accordance with Development Control Plan No. 56, owners of surrounding properties were given notice of the application. In response, submissions from the following were received:

1. Stewart Tonks, 7 Yosefa Ave, Warrawee
2. Margaret Pardy, 4 Yosefa Ave, Warrawee
3. Andrew Wilson, 1533 Pacific Highway, Wahroonga
4. Mrs F Nouai, 4-6 Woodville Avenue, Wahroonga

The submissions raised the following issues:

The building is too high and covers too much area

The proposal has a maximum height of 34.62m to the top of the tower. It is agreed that the proposal has a height which is out of character with that of surrounding developments when considering the draft heritage conservation area (as discussed in further detail below). In relation to the “area of the building”, there is no specific control, however, it is noted that the application has not demonstrated to the satisfaction of Council that the site has an acceptable area set aside for playground use.

The building is too close to the street (Borambil Street)

The proposal has a varied setback to Borambil Street of between 4.10 metres and 7.460 metres. There are no specific development controls which relate to front setbacks for the site with the exception of the Schools Development Control Code and the Schools facilities standards which indicate that the buildings should take into consideration the existing character of the area and impacts on adjoining properties. Council’s Heritage Advisor has raised concerns with the proposed setback in terms of likely impacts on the adjoining heritage item at 2 Borambil Street and the draft heritage conservation area (Draft LEP 218).

There needs to be much more off street parking provided by the school

Carparking rates for schools are determined by the number of students and staff who attend the school. This is not being increased. The school previously provided additional off street parking in conjunction with the multi purpose hall. That application was accompanied by a traffic engineer’s report which contained parking surveys supporting the additional parking provisions.

There needs to be an off street pick up zone provided by the school

A pickup and drop off area was provided to the school located within the Woodville Avenue carpark in conjunction with the multi purpose hall.

Pedestrian access is becoming more difficult due to development within the area and safer provision is required

An accessibility report accompanies the development application and indicates that disabled access associated with the development is able to be achieved and general access within the development and entries is satisfactory.

Special provisions need to be made during construction to allow for safe exit and entry of heavy vehicles from the streets and also proper provision by the school for parking for all personnel involved in the construction process

A construction traffic management plan has been submitted with the development application. The report has been considered satisfactory by Council's Development Engineers. Refer to Council's Development Engineering comments for further details. A more detailed plan would be required prior to the commencement of any works which would include construction employee parking.

Notification should have been more widespread given the scale of the proposed development

The application was notified for a period of 30 days in accordance with the requirements of Council's Development Control Plan 56 "Notification".

Existing parking problems in Woodville Avenue should be rectified

The development is on the Borambil Street frontage and is not expected to affect parking in Woodville Avenue. As noted previously, studies were undertaken as part of the multi purpose hall assessment which indicates satisfactory parking and traffic conditions. Refer to Council's Development Engineers comments below for further details.

Whether Council can insist that off-street parking is utilised instead of parking in Woodville Avenue

Council is unable to prevent motorists from legally parking their vehicles.

Statutory duty of care requirements under schedule 1 amendment of Conveyancing Act 1919.

The above concern relates to potential damage to adjoining properties during construction. Should development consent be granted, conditions of consent relating to excavation and protection of adjoining properties would be included.

CONSULTATION – EXTERNAL TO COUNCIL

Urban design

Council's Urban Design Consultant reviewed the application and provided the following conclusion and recommendations. The complete Urban Design comments can be found at **Attachment 8** to this report.

Conclusion

- *The organisation of the Seniors Centre building with the exception of the tower building is appropriate for the context; spatial system; alignment; setbacks and ground plane treatment.*
- *The design of the roof increases the appearance of the height. While the number of storeys is appropriate a different resolution of the roof could reduce the visual impact of the height.*
- *The choice of materials is appropriate.*
- *The architectural resolution is inappropriate. The buildings are designed in a style which is too ecclesiastical and should be more in line with the other educational buildings on the site.*
- *The tower is an inappropriate introduction to the Seniors Centre and the school. It confuses the hierarchy of entrances to the school and its design is inappropriate for 2012.*

Recommendations

- *Maintain the arrangement and composition of the Seniors Centre as designed. This includes spatial relationships; height [see below]; alignment; setbacks and ground plane treatment.*
- *Maintain the palette of materials.*
- *Redesign the elevations of the buildings to better reflect their use and their relationship to the buildings across the whole campus. Remove overtly ecclesiastical references.*
- *Complement the different resolution of the elevations with a more sympathetic roof design possibly with a less steeply pitched roof.*
- *Remove the tower and design an entry which better reflects the context and the hierarchy of entrances into the school.*

INTERNAL REFERRALS

Landscaping

Council's Landscape and Tree Assessment Officer commented on the proposal as follows:

Tree 9 - Eucalyptus saligna (Sydney Blue Gum)

Health & condition

25 metres high with an 18 metres canopy spread

Good health with high landscape value

Diameter at breast height – 1000mm

Tree protection zone (TPZ) – 12 metres

Structural root zone (SRZ) - 3.3 metres

Encroachment into TPZ & SRZ

No calculations for the level of encroachment into the tree protection zone have been provided by the arborist.

I have calculated that the encroachment within the tree protection zone (TPZ) for the proposed courtyard, colonnade, new paths and masonry walls around the garden bed is approximately 43%.

The proposed works encroach within the structural root zone (SRZ) on 2 sides of the tree.

In accordance with the Australian Standard AS4970-2009 – Protection of trees on development sites an encroachment into the TPZ of more than 10% or inside the SRZ is considered a major encroachment and the project arborist must demonstrate that the tree will remain viable.

Root investigation

In response to the major encroachment into the TPZ of Tree 9, root investigation was carried out by the applicant's arborist including a total of 4 trenches.

The following table is a summary of the roots found within the trenches;

<i>Trench</i>	<i>Root diameter</i>	<i>Root depth</i>	<i>Retain / Remove</i>
<i>Southern trench</i> <i>16 metres long aligned with northern wall of courtyard. Approx. 2 metres from</i>	<i>50mm</i>	<i>350mm</i>	<i>Remove</i>
	<i>70mm</i>	<i>500mm</i>	<i>Remove</i>
	<i>50mm</i>	<i>600mm</i>	<i>Remove</i>
	<i>50mm</i>	<i>700mm</i>	<i>Remove</i>
	<i>40mm</i>	<i>550mm</i>	<i>Remove</i>
	<i>20mm</i>	<i>500mm</i>	<i>Remove</i>

<i>trunk at closest point</i>			
Northern trench	20mm	400mm	Uncertain
	40mm	600mm	Uncertain
14 metres	40mm	350mm	Uncertain
long aligned	20mm	500mm	Uncertain
with south	20mm	700mm	Uncertain
side of	40mm	600mm	Uncertain
colonnade.	30mm	600mm	Uncertain
Approx. 2	50mm	700mm	Retain
metres from	50mm	550mm	Retain
trunk at closest point.	30mm	400mm	Retain
Eastern trench	130mm	600mm	Retain
	40mm	550mm	Retain
Extends	50mm	350mm	Retain
between	50mm	600mm	Uncertain
northern and	30mm	400mm	Uncertain
southern			
trenches.			
Approx. 2			
metres from			
trunk at			
closest point.			
Western trench	60mm	200mm	Retain
	120mm	600mm	Retain
Extends	45mm	500mm	Retain
between			
northern and			
southern			
trenches.			
Approx. 1.5			
metres from			
trunk at			
closest point.			

The arborist has stated that the 6 roots found within the southern trench are insignificant and their removal will not have an adverse effect on Tree 9.

In accordance with the Clause B2.4 of Australian Standard AS4970-2009 – Protection of trees on development sites the roots within the southern trench would be categorised as lower order roots which provide anchorage and structural stability for the tree.

It is also highly likely that two additional roots found within the eastern trench in close proximity to the southern trench will also be removed to construct the courtyard.

Furthermore, there is uncertainty regarding the impacts of the colonnade and masonry walls around the garden on seven roots found in the northern trench. There is insufficient information regarding levels of the proposed works to determine whether these roots will also require removal. The arborist has provided no comment in relation to the impact of the colonnade and masonry walls on the southern and western sides of the tree.

As the root investigation failed to reveal any more than two larger structural woody roots the removal of at least five roots that provide anchorage for Tree 9 is highly likely to affect the long term health and stability of the tree. The stability of the tree would be further comprised with the potential loss of another two roots on the eastern side and the possibility of up to six roots on the northern side all located within the structural root zone of the tree.

Despite the absence of an extensive root system and the past placement of fill and pavers within the trees tree protection zone, the tree canopy exhibits good health and vigour. Although the root mapping failed to find numerous structural woody roots that would be expected for a tree of this size, the tree shows no obvious signs of instability. It is likely that the existing buildings and trees located to the west and south of Tree 9 provide some protection from the prevailing winds.

The proposed removal of Tree's 1, 2 & 3 and the impacts of the works on Tree 9 will affect the health and stability of the tree. If the proposed works proceed it is recommended that Tree 9 be removed.

Canopy overhang

A large portion of the tree's canopy will overhang the proposed upper open courtyard. The location of the courtyard under the canopy of the Sydney Blue Gum will greatly increase the risk of damage from falling limbs to property and/or injury to students, staff and visitors utilising this area.

Excavation for courtyard

Based on the existing levels of 182.9 at the north western corner of the proposed courtyard the excavation required to achieve the finished level of the courtyard of 182.17 including the slab with a thickened edge beam will be up to approximately 800 to 1000 mm in depth.

The arborist's calculation of 600mm for the excavation is based on the existing level of 182.66 at the base of Tree 9.

As the southern trench was only dug to a depth of 700 to 800mm, there may be other roots potentially affected by the proposed works.

TREE 4 – Eucalyptus saligna (Sydney Blue Gum)

The applicant's structural engineer has provided additional comments on the replacement of the existing retaining wall located in close proximity to Tree 4. The engineer states that to safely construct the new wall a temporary soil batter of 1:1 is required behind the wall to ensure slope stability. The batter will encroach within the tree's structural root zone causing instability.

It is recommended that the Council seek the advice of a structural engineer to ascertain whether the existing wall can remain in place within the TPZ of Tree 4 whilst constructing the new wall. Advice is required as to whether it be possible to install piers in place of the strip footing indicated on the sketch SK01 provided by the applicant's consultant.

Regardless of whether a new wall can be constructed without impacting on Tree 4 the proposed steps between the new building and the wall will require removal of the tree. The arborist states that Tree 4 is a valuable landscape feature and possibly a remnant of the former vegetation community of the area.

If a new wall can be constructed without any impacts on Tree 4 amendments are required to the proposal to preserve the tree.

School Facilities Standards – Landscape Standard – Version 22/03/02

Council's response to applicant's letter from McCullough Robertson Lawyers dated 05/03/12.

The applicant's lawyers are of the opinion that Clauses 2.4.3 and 4.2.2 of the landscape standards validates the removal of Tree 4.

Subclause 2.4.3 is listed under Clause 2.4 which relates to the use of harmful or irritant plants. This section of the standard relates to new plantings within the school grounds. There is no indication that existing trees listed within this clause should be removed.

Subclause 4.2.2 is listed under Clause 4.2 which relates to maintenance. Again, this clause relates to strategies for the placement of new trees providing recommendations for species selection and setbacks from buildings. In fact a "Table of Critical Dimensions" provided on page 21 of the standards document lists that the distance between an existing tree and development should be no less than the dripline of the tree. This being the case the new building should be located a minimum distance of 10 metres from the tree's trunk.

Contrary to what the applicant's lawyers have suggested, the overall intent of the standard is to preserve existing trees. For example;

1.2 Landscape character

Strategies

- **Retain and protect existing trees.** They are landmarks and gathering points within the school. They provide scale to new buildings and shade in an otherwise immature new environment. Consider their adaptability to be retained depending on the type of tree and possible changes to their environment (soil levels, water table, root disturbance)

2.5 Plant management

2.5.1 Retained trees should be managed to ensure their long term viability and student safety. If existing trees are disturbed or stressed they may drop limbs in order to cope, or die altogether.

Strategies

- **Avoid construction within the root zone of existing retained trees** within the design process. The root zone generally extends beyond the drip line of the crown. Disturbance to this area can be caused by compaction due to stock piling materials, parking of vehicles, cutting or exposure of roots and changes in ground level.

Clearly this demonstrates that there is an emphasis on the retention and preservation of existing trees.

Trees 1 & 3 – 2 x *Eucalyptus saligna* (Sydney Blue Gum)

Tree's 1 & 3 are 13 to 20 metres in height in good health. No additional justification for their removal has been provided other than they are within the footprint of the proposed courtyard.

Tree 11 – *Lophostemon confertus* (Brushbox)

The amendments to the stormwater plans to preserve Tree 11 are considered acceptable.

Playground area

In accordance with Ku-ring-gai Schools Development Control Code playground space is to be provided at a minimum rate of 20.5m² per student. The Statement of Environmental Effects states that as there is no increase in student numbers this standard is not applicable.

The new building will be reducing the playground area by approximately 1,600m² which is a considerable loss of open space for a school of at least 1300 students. In accordance with Schools DCC the site should attain in excess of 26,000m² of playground space based on the student numbers.

Conclusion

The Landscape Assessment Officer finds the proposal unacceptable in relation to the proposed tree removal. A summary of the issues are as follows;

- i. Removal of Tree's 1 & 3 – 2 x Eucalyptus saligna (Sydney Blue Gum) is not supported. No additional information has been provided other than they are within the footprint of the proposed courtyard.*
- ii. Removal of Tree 4 – Eucalyptus saligna (Sydney Blue Gum) is not supported subject to further advice from a structural engineer that a new retaining wall can be constructed without impacts on the tree's roots. If this can be confirmed amendments will be required to the proposal to preserve the tree.*
- iii. Impacts on Tree 9 – Eucalyptus saligna (Sydney Blue Gum) are significant to the point where its retention is not possible. The proposed works are not supported.*
- iv. The removal of 3 x Eucalyptus saligna (Sydney Blue Gum) and significant impact on or potential removal of 1 x Eucalyptus saligna (Sydney Blue Gum) deemed to be healthy and have high landscape and ecological significance is not in accordance with clauses 1.2 & 2.5.1 of School Facilities Standards – Landscape Standard – Version 22/03/02.*
- v. Non compliance with Ku-ring-gai Schools Development Control Code. The proposal results in the reduction of playground area by approximately 1,600m².*

Amended plans required

To preserve the following trees a redesign of the proposal will be required. Minimum setbacks from the trees trunks are provided. No building works and/or changes to soil levels are permitted within the tree protection zones.

Tree no / species	Minimum setback from trunk of tree
<i>Tree 1 – Eucalyptus saligna (Sydney Blue Gum)</i>	<i>6 metres</i>
<i>Tree 3 - Eucalyptus saligna (Sydney Blue Gum)</i>	<i>7 metres</i>
<i>Tree 4 – Eucalyptus saligna (Sydney Blue Gum)</i>	<i>10 metres</i>
<i>Tree 9 – Eucalyptus saligna (Sydney Blue Gum)</i>	<i>10 metres</i>

Ecology

Council's Ecological Assessment Officer commented on the proposal as follows:

Methodology

This ecological review of the proposal was based on the results of a desktop review and a site inspection by John Whyte, Ecological Assessment Officer of Ku-ring-gai council on the 2nd of November 2011.

Site description

The School site contains Blue Gum High Forest (BGHF) a critically endangered ecological community (CEEC) listed under the Threatened Species Conservation Act 1995. The BGHF community within the site is comprised of Trees 1, 3, 4 & 9 –Eucalyptus saligna (Sydney Blue Gum) within a highly modified understorey.

Impacts from the proposal

The distribution (local occurrence) of Blue Gum High Forest within the area subject to development has been identified by the applicant's ecologist (Ecological) as the canopy spread of Trees 1, 3, 4 & 9 which is approximately 823m². This occurrence is considered by the applicant's ecologist to part of larger local occurrence within Borambil Street (0.64ha) of Blue Gum High Forest.

It is considered that the Blue Gum High Forest within the Knox School is disjunct from the Borambil Street patch of BGHF for the following reasons:

Section 3 of the scientific determination for Blue Gum High Forest states the following "community includes micro-organisms, fungi, cryptogamic plants and a diverse fauna, both vertebrate and invertebrate". Therefore, the BGHF does not only comprise canopy trees but includes the soil, fungi & microorganisms. Genetic transfer of pollen is likely to occur between the BGHF canopy trees within the School and that which occurs within Borambil Street, however other components soil, fungi & microorganisms are unlikely to be interacting due to separation distance of greater than 60m. Therefore, the local occurrence of BGHF is defined as that which occurs within the Knox School only.

The proposal will result in the directly removal of Trees 1, 3 & 4 (69%) of the local occurrence of BGHF within the subject site. In addition, Tree 9- Sydney Blue Gum has been assessed by Councils Landscape Assessment Officer as likely to be detrimentally affected by the

proposed development; therefore the local occurrence of BGHF within the site would be removed in its entirety.

The ecological functions & processes that occur at present within the BGHF community on & adjacent to the site will be further reduced as result of the loss of trees.

The proposal will further reduce the availability of foraging habitat for fauna species and this is likely to result in a decrease in ecological processes such as the dispersal of pollen, gene flow (Cross-pollination). These processes contribute to the survival of the Blue Gum High Forest within the site & locality.

The proposal is not supported for the following reasons:

Flora and fauna assessment

The impact assessment (7-part test) prepared by Eco logical has concluded that the proposed development is not likely to have a significant impact upon Blue Gum High Forest community. The impact assessment prepared does not correctly consider the factors of the assessment as set out under section 5a part 2 factors c (i) (ii), d (ii) (iii) & g of the Environmental Planning & Assessment Act 1979.

Table 1 provides a review of impact assessment prepared by Eco Logical against each of the factors which comprise the seven part test.

Adverse impacts upon BGHF community

The proposal is contrary to part 1 section 3 objectives a, b, d & f of the Threatened Species Conservation Act 1995 (TSC Act 1995). The proposed development should not be approved as it will have a detrimental impact upon the BGHF community.

a. *The proposal is contrary to part 1 section 3 objective (a) –*

“to conserve biological diversity and promote ecologically sustainable development” (TSC Act 1995).

The proposal will result in 100% modification of the local occurrence of endangered ecological community Blue Gum High Forest from within the site. Blue Gum High Forest community will be reduced should the proposal proceed within the site and locality. The proposal fails to consider the presence of Critically Endangered Blue Gum High Forest despite the applicant being advised during a pre-development application that Blue Gum High Forest trees are to be retained.

b. *The proposal is contrary to part 1 section 3 objectives (b&d)*

“to prevent the extinction and promote the recovery of threatened species, populations and ecological communities &

“to eliminate or manage certain processes that threaten the survival or evolutionary development of threatened species, populations and ecological communities” (TSC Act 1995)

The ecological function/processes that occur at present within the BGHF community will be further reduced should the proposal proceed. The proposal will further reduce the availability of foraging habitat for birds & bats and is likely to result in a decrease in ecological processes such as the dispersal of pollen, gene flow (Cross-pollination) and recruitment which contributes to the survival of the BGHF community within the site and locality.

The proposal will remove Trees 1, 3 & 4- Sydney Blue Gums & detrimentally affect tree 9 which constitutes the following key threatening process “Clearing of native vegetation” listed under the Threatened Species Conservation Act 1995.

Further section 9 of the scientific determination for Blue Gum High Forest states the following: “All remnants of the community are now surrounded by urban development. Consequently, the distribution of Blue Gum High Forest is severely fragmented. Fragmentation of habitat contributes to a very large reduction in the ecological function of the community”. The proposed removal of Blue Gum High Forest within the School will contribute to fragmentation and reduction of ecological functions within the Blue Gum High Forest community.

c. *The proposal is contrary to part 1 section 3 objective (f)-*

“to encourage the conservation of threatened species, populations and ecological communities by the adoption of measures involving co-operative management” (TSC Act 1995).

The proposal fails to encourage the conservation of the BGHF community. The proposal will result in the loss of three BGHF canopy trees with a fourth to be detrimentally affected.

Section 11 of the scientific determination for Blue Gum High Forest states that “The loss of large trees removes essential habitat for a range of tree-dependent fauna (Gibbons and Lindenmeyer 1996). The reduction of understorey complexity, through the reduction of native shrub cover, degrades habitat for a range of bird and mammal species (Catling 1991). These processes contribute to a very large reduction in the ecological function of the community”.

As indicated previously, the proposal will directly remove Trees 1, 3 & 4 and detrimentally affect Tree 9. The entire area of BGHF within the Knox School will be affected as a result of the proposal.

Insufficient information

No species impact statement has been prepared for the development. A SIS is considered to be appropriate due to significant impacts of the proposal upon Blue Gum High Forest community in accordance Part 4 Division 2, Section 78A part (8b) of the Environmental Planning & Assessment Act 1979.

BGHF community offsets

Eco Logical have proposed the following compensatory measures for the Blue Gum High Forest community “The proposed supplementary planting of Sydney Blue Gum Trees (Grown from seed from the removed trees or from local remnant Sydney Blue Gum) in areas of the School grounds where the trees are unlikely to pose hazards or be affected by future development”.

*Further supporting advice has been provided by Cumberland Ecology regarding compensatory measures for loss of Blue Gum High Forest these are “While we agree that supplementary planting of *Eucalyptus saligna* is appropriate, it is recommended that this proposed measure be further strengthened and clarified to include clear areas to be designated for such compensatory plantings. The planted area should be large enough to furnish a ratio of 2:1. That is, for every square metre of BGHF to be cleared (using the area beneath the canopy of the four trees as a guide to area), two square metres should be replaced. The proposed replanted area of BGHF should be accompanied by a Vegetation Management Plan and protected by covenant, for example a covenant under section 88B of the Conveyancing Act (*Black v Ku-ring-gal Council* [2008] NSWLEC 1501)”.*

Should the application seek to compensate the loss of Blue Gum High Forest community within the site as result of the proposal, the offset must be calculated in accordance with Office of Environment Heritage (OEH) Biobanking methodology.

Biobanking methodology is only recognised offset methodology under the Threatened Species Conservation Act 1995.

OEH has developed a transparent, consistent and scientifically-based set of rules to assess biodiversity values. The Biobanking assessment methodology provides rules for the number and type of credits that a development site will require in order to offset its impacts and thus improve or maintain biodiversity values. The methodology also provides rules for the number and type of credits that can be created from undertaking conservation management at a biobank site.

Engineering

Council's Development Engineer commented on the proposal as follows:

The following documentation was used for the assessment:

- *Statement of Environmental Effects by Don Fox Planning, dated November 2011;*
- *Jones Sonter Architectural plans Revision 1;*
- *Garvin Morgan & Company Survey Plan dated 31/08/2011 (2 sheets);*
- *Garvin Morgan letter dated 26 September 2011 and attached title information;*
- *Waterman AHW Drawings 23984 C00.01/DA1, C01.01/DA3, C02.01/DA2, C03.01, C03.02 and C03.03 all Issue DA1 and C04.01/DA2 as well as a letter dated 27 October 2011;*
- *Jeffery and Katauskas Report on Geotechnical Investigation dated 1 November 2011;*
- *Transport and Traffic Planning Associates Assessment of Traffic and Parking Implications dated October 2011 (includes a concept Construction Traffic Management Plan).*

According to the Sydney Water Guidelines, a Section 73 Certificate is required for "All industrial, commercial and special use re-development where new building is involved." (Special use includes schools). This would be incorporated into the recommended engineering conditions.

Water management

The site is traversed by a drainage easement containing a 450mm diameter trunk drainage pipe which carries runoff from the Pacific Highway. It is proposed to relocate the pipe clear of the new building by means of a 525mm diameter pipe. A minimum clearance of 2.5 metres is provided over the proposed easement (under the new tower) as required under Chapter 7 of Council's DCP 47 Water management.

The new trunk drainage pipe within a 1.8 metres wide easement, the 375mm diameter rainwater pipe, the 225mm diameter stormwater pipe and the 150mm diameter subsoil drainage pipe will be tightly packed at the pinch point between the eastern corner of the store room and the boundary. There will just be sufficient space, and there appears to be a fire exit or similar over, so no large plantings are proposed over the pipes at that location.

The applicant has amended the stormwater management plans to show that the relocated Council trunk drainage pipe will be clear of the protection zone for Tree 11. This is acceptable to Landscape Services.

Also, for reasons of tree protection, it is required that the redundant pipe be either backfilled or adequately blocked off to minimise works in the vicinity of Tree 9. This can be conditioned.

The title and instrument documentation submitted by Garvin Morgan confirm that the easement is in favour of Ku-ring-gai Council. The extinguishment of the easement requires a Council resolution, so a deferred commencement consent would be recommended (because approval cannot be guaranteed).

Traffic and parking

No increase in student or staff numbers is proposed and no parking spaces will be removed as a result of the development. The number of Year 12 students has been a maximum of 230 over the last ten years, and the number of equivalent full time staff is also 230, so under Council's DCP 43 Car parking a total of 259 parking spaces would be required.

On-site parking was increased by some 68 spaces to approximately 235 spaces in conjunction with the multi-purpose hall constructed between 2009 and 2011 under the Nation Building program. The works also included a pick-up and drop-off area off Woodville Road and the connection of the driveways from Borambil Avenue and Woodville Road. The traffic report accompanying that application contained parking surveys indicating that the additional parking would effectively remove all-day on-street parking associated with the school and contained the statement "Observations of the activity in Borambil Street indicate only limited usage in both the morning and afternoon periods."

The parking report submitted with the current Seniors Centre application also confirms that the 14 new classrooms proposed are replacing 15 existing classrooms. Therefore, no additional parking or traffic will be generated by the development, and traffic conditions in Borambil Street would not be expected to change as a result.

The new development includes a loading dock (to service the canteen), and the traffic engineer's report confirms the dimensions of the loading dock as adequate for the type of vehicle expected to use it.

Construction traffic management

Because there is no actual basement and therefore comparatively little excavation, the CTMP indicates that single trucks (not truck and dog trailers) will be used for the excavation phase. Construction vehicle access from the Pacific Highway is available for both north- and south-bound vehicles. Vehicles leaving the site to travel north will do so via Fox Valley Road.

The CTMP commits to a traffic controller at the Borambil Street entrance to the school to manage pedestrian, motorist and construction vehicle access.

The CTMP recommends a construction stage “No Stopping” restriction in Borambil Street to allow for two way vehicular access. This could be incorporated into the recommended conditions if the application were to be approved.

The CTMP also commits to a Works Zone in Borambil Street, which would also be incorporated into any conditions of consent.

Geotechnical investigation

Excavation of up to 4 metres is proposed. The site is underlain by fill and residual clays over shale. Groundwater monitoring is ongoing although additional data has not been provided. It is noted that if permanent drainage of the excavation is required, it can be achieved by gravity and would not require pumping.

The NSW Office of Water has advised that the licensing of dewatering systems is continuing under the Water Act 1912, but this situation could change when the Aquifer Interference Policy is established. Conditions which would apply to a development such as this one, where the need for a licence is not yet known, have been recommended. The conditions require consultation with NSW Office of Water if significant inflow rates occur during construction.

Environmental Health

Council's Environmental Health Officer commented on the proposal as follows:

Clause 6.12.1.8 ‘Noise and Vibration’ of the Statement of Environmental Effects, references a Noise Assessment Report (Appendix J) prepared by Acoustic Logic’s wherein it is advised, subject to the recommendations outlined, the proposal will create an acceptable noise impact.

The Noise Assessment Report reports that the school is exposed to levels of rail noise and vibration. The assessment gives due consideration to the mitigation of potential noise impacts on the development and the impact the development might have at the neighbouring potentially affected residential properties.

On the information provided, it is considered feasible, subject to the application of the recommendations proposed, that noise levels can be mitigated to recommended levels.

Building

Council's Building Officer commented on the proposal as follows:

Class 9(b) building: school

No of storeys: 4

Type A construction

One male and one female toilets are shown at level 1 for the new building. Sanitary facilities must be provided in accordance with BCA Table F2.3.

Carparking spaces for people with disabilities to be provided in accordance with BCA clause D3.5 accessible carparking

Amended plans are required to be submitted for assessment for BCA compliance prior to the DA approval.

Heritage

Council's Heritage Advisor commented on the proposal as follows:

The scale, height and location of the proposed development would have adverse impacts on the existing nearby heritage item at No 2 Borambil Avenue by affecting its existing setting in a residential street, its scale would visually dominate the nearby heritage item, it would affect existing views from the item which appears to have been sited to overlook a reserve to enjoy views to the Knox Oval and there would be some overshadowing of its garden and entrance.

The proposed development would not have adverse impacts on other nearby heritage items because they are located away from the vicinity of the site.

The proposed development would have detrimental impacts on the proposed HCA and is not respectful to the adjoining residential area.

For the above reasons, the proposed development is not supported. Any modifications should seek to increase the setback from Borambil Avenue to reflect existing setbacks in the street, reduce the scale, particularly the height which should step down from the existing buildings on the school site to reflect the height of dwellings in the adjoining residential area and any development on the site should retain the Blue Bums.

Further comments on submission dated 16 February 2012.

A further submission from the school, dated 16 February 2012, was made to Council for consideration. There appears to be no amendments to the scheme, however additional supporting information has been submitted, including a review of the original heritage report prepared by Mr Patch by Mr Staas from Noel Bell Ridley Smith & Partners and comments on Council's heritage assessment. A key change since my original comments were provided has been exhibition of draft LEP 218 which includes the Knox site within the draft Heritage Conservation Area which commenced on 27 January 2011

Heritage status

The school site is not listed as a heritage item, however, the site is considered to have aesthetic, social and historic significance as part of the area in which it is contained and certain buildings on the site may have individual historic and aesthetic significance.

The school site adjoins a number of heritage items (attached inventory information). Clause 61 E of the KPSO requires Council to consider impacts from the development on the heritage significance of any items within the vicinity of a development. The nearby items include:

- *2 Borambil Street*
- *6 Borambil Street*
- *1485 – 1493 Pacific Highway*
- *32 Heydon Avenue*
- *34 Heydon Avenue*

Draft Heritage Conservation Area (HCA) No C 2

The site is included in a draft HCA – draft LEP 218 area C-2 as exhibited on 27/1/12.

The following is the Statement of significance for the draft HCA:

“A distinctive residential area of historic and aesthetic significance for its fine Federation and Inter-war period streetscapes, including Yosefa Avenue, which contains houses designed by architect August Aley. The area contains a number of heritage items by notable architects including Redleaf and Inglewood, both designed by Howard Joseland. Significantly, the area retains its oldest house, Reaycroft at 17 Heydon, built in the Federation Queen Anne style in 1895 to a design by architects Castleton & Lake for Judge Heydon, after whom the Heydon Avenue is named.”

The submission period for the exhibition has closed and Strategic Planning will consider the submissions in a future report to Council. To date, no time has been set for the report to Council

National Trust UCA No 25 – Heydon Avenue

The site is included within the National Trust UCA No 25 and is graded as contributory. The UCA is a narrow band of land located between the Pacific Highway and the railway line from Redleaf Avenue of Winton Street. The Statement of Significance is:

“The Warrawee Urban Conservation area is one of the historically and aesthetically distinctive residential areas within Ku-ring-gai which exhibits exceptional heritage significance and values in the integrity and qualities for their development pattern and streetscapes, buildings and gardens. The subdivision pattern of the conservation area and its historical evolution remain legible, retaining vestiges of the early estates in the boundaries and streets formed when subdivisions were pursued – allowing many of the existing homes, which are the first buildings upon their sites, to be built. Many of these houses are the work of notable contemporary architects and retain their sophisticated garden settings, some of which are in turn the work of prominent landscape architects and gardeners.”

The conservation area's predominant residential character, established and maintained by its early residents and interrupted only by local public and private schools, is complemented by the pervading treed landscape of Ku-ring-gai, which is also underpinned by mature and diverse private gardens. The area is potentially of state significance.

Comments on peer review

I have read the comments provided by Robert Staas Noel Bell Ridley Smith & Partners, dated 30 January 2012. The report comments on the previous applicant's heritage report prepared by Greg Patch from Archnex Design and the comments prepared by myself as Council's Heritage Advisor.

I make the following points to summarise the issues:

- i. The report was dated 30 January 2012. The exhibition of draft LEP 218 commenced on Friday 27 January 2012. The references to “potential draft Heritage Conservation Area” are thus misleading as the status of the land is draft HCA from the commencement of the exhibition. Mr Staas states the National Trust UCA has no statutory implications which is correct and not in dispute. The Trust classification dates*

to 1996 and is based on a NSW wide survey of Inter War housing undertaken in 1992.

- ii. *The heritage report undertaken by Paul Davies Pty Ltd was commissioned by Council in 2010 and was completed in November 2010. The National Trust UCA and an earlier review by GML for Council in 2004 formed the background for the review.*
- iii. *The Greg Patch heritage report submitted with the application did not consider the North Area heritage review undertaken by Paul Davies or the draft HCA. It only addressed the nearby heritage items, notably No 2 Borambil Avenue, opposite the development site and other nearby items. Mr Staas agrees with this initial assessment and noted that the juxtaposition of large institutions within areas of high quality houses in a distinctive character of the Kuring-gai area and in particular Wahroonga and Warrawee. Mr Staas has not made comments about the impact of the proposed development on the values of the draft HCA.*
- iv. *In reply I note that historically there has been a pattern of large properties being acquired by institutions and used for schools including hospitals and seminaries associated with religious use, but this trend has changed. Of the 5 or 6 seminaries or novitiates once present in the Wahroonga/Warrawee area, none now survive and they have reverted to residential uses, in most cases with some new residential development on their sites. Some other institutional sites have ceased, such as the John Williams Hospital or are underutilised or converted to aged care housing. The only institutional uses that appear to be growing in the Wahroonga/Warrawee area are the school sites and these are creating potential conflicts with the surrounding residential uses and heritage character.*
- v. *In terms of the impact of the proposed development on the nearby heritage item, Mr Staas agrees with Mr Patch that the items at No 2 Borambil Street should be reviewed and its listing removed. Council reviewed the property in 2010 by Paul Davies and it recommended that the heritage listing be retained and a HCA established in the area which includes the whole of the Knox senior school site. Additionally, the review recommended individual buildings on the school site should be investigated for potential heritage listing.*
- vi. *At this stage, Council has not considered a further heritage review of the Knox senior school site. However, this could be considered in a future review when the draft HCA is finalised.*

- vii. *I agree with several of the points made by Mr Staas. The heritage item at 2 Borambil Street primarily faces the park with its service entry to Borambil Street. My initial assessment was without the benefit of a shadow diagram and I had commented that the item and its garden would be overshadowed for considerable periods in the afternoon. With the benefit of shadow diagrams, I now acknowledge that overshadowing would be minimal and would have minor impacts.*
- viii. *I am uncertain about the original design context of the item at No 2 Borambil Avenue and no further historical evidence has been provided. My assumption, based on early aerial photographs, is that the house was planned with a secondary view to the Knox Oval and there may have been historical associations with the school. Mr Staas disagrees with this view and states it was implausible that the item was designed to consider filtered views to the west across the school site and to the large oval on the Knox site. In my opinion, this aspect of the heritage item requires further research and consideration. All houses, particularly large architect designed houses are conceived to fit into their location and immediate site context to take advantage of views, sunlight, orientation and amenity.*
- ix. *The crux of the disagreement is the relative merits of the interface between the school site and the surrounding residential area. While I acknowledge that the Knox site is integral with the development of the precinct, both historically and aesthetically and should form part of the wider HCA, Mr Staas maintains that the school site is separated from the residential area and should be a separate listing if appropriate.*
- x. *Mr Staas also states that the scale relationship of institutional sites with the nearby heritage item and residential sites is consistent with those bordering the campus. This may reflect the existing pattern in the northern part of the draft HCA where the Knox site adjoins Woodville Avenue. However, the subject site in Borambil Avenue has a different character including which includes residential scale housing of one and two storeys with scattered large trees and mature gardens. In Borambil Street, The Knox site is dominated by the Chapel which is set back a considerable distance with mature plantings, a large but low scale concrete carpark screened by plantings, some temporary low scale buildings and a low key pedestrian entry. The scale of the proposed development is not consistent with this*

character and would affect the heritage significance of the draft HCA.

- xi. I disagree with Mr Staas that the scale and location of the proposed development is sympathetic to the surrounding development. However, I do not disagree that the proposed development would be sympathetic with the character of the school site. The proposed development is clearly designed to draw on the character of distinctive buildings on the Knox site. In effect, it extends the main school buildings to the edge of Borambil Street and results in conflicts with the existing residential character. The heritage issue is how the school site interfaces with the adjoining residential precinct in Borambil Street and how this affects the identified values of the draft Heritage Conservation Area.*

In conclusion, my assessment of the proposed development has not primarily changed. With exhibition of draft LEP 218, the heritage issues associated with the conflict between the school site and the adjoining residential scale have been strengthened.

The scale, height and location of the proposed development would have adverse impacts on the existing nearby heritage item at No 2 Borambil Avenue by affecting its existing setting in a residential street.

The proposed development would have detrimental impacts on the draft Heritage Conservation Area and is not respectful to the adjoining residential area.

EXTERNAL REFERRALS

Roads and Maritime Service of NSW (Previously RTA)

In accordance with SEPP (Infrastructure) 2007, the application was referred to the Road and Maritime Service of NSW and the following comments were provided:

“RMS has reviewed the development application and raises no objection to the proposed Senior's Centre to replace the existing demountable classes as the proposal will not have significant traffic impact on the classified road network.”

Rail Corp NSW

In accordance with SEPP (Infrastructure) 2007, the application was referred to Rail Corp NSW. No written response was received from Rail Corp and an enquiry was subsequently made. The Manager of Land Use and Planning of Rail Corp Property Department advised that the proposal was considered to be at a sufficient distance from the railway corridor as to not be classified as concurrent under clause 85 of SEPP as further discussed below.

STATUTORY PROVISIONS

State Environmental Planning Policy (Infrastructure) 2007

The proposed application is subject to the requirements of SEPP infrastructure. The relevant clauses of the SEPP and an assessment against those clauses are provided below.

28 Development permitted with consent

- (1) *Development for the purpose of educational establishments may be carried out by any person with consent on land in a prescribed zone.*
- (2) *Development for any of the following purposes may be carried out by any person with consent on any of the following land:*
 - (a) *development for the purpose of educational establishments—on land on which there is an existing educational establishment,*
 - (b) *development for the purpose of the expansion of existing educational establishments—on land adjacent to the existing educational establishment.*
- (3) *An educational establishment (including any part of its site and any of its facilities) may be used, with consent, for any community purpose, whether or not it is a commercial use of the establishment.*
- (4) *Subclause (3) does not require consent to carry out development on land if that development could, but for this Policy, be carried out on that land without consent.*

The proposal is therefore considered to be a permitted use within the zone under the requirements of the SEPP.

32 Determination of development applications

- (2) *Before determining a development application for development for the purposes of a school, the consent authority must take into consideration all relevant standards in the following State government publications (as in force on the commencement of this Policy):*
 - (a) *School Facilities Standards—Landscape Standard—Version 22 (March 2002),*
 - (b) *Schools Facilities Standards—Design Standard (Version 1/09/2006),*
 - (c) *Schools Facilities Standards—Specification Standard (Version 01/11/2008).*

- (3) *If there is an inconsistency between a standard referred to in subclause (2) and a provision of a development control plan, the standard prevails to the extent of the inconsistency.*

Council is therefore required to give consideration to the schools facilities standards. It is noted that the minutes provided to the applicant as a result of the pre-lodgement meeting requested the applicant to address the requirements of the Schools facilities standards. The subject application has not addressed the Schools Facilities Standards and therefore the applicant has not demonstrated compliance with this aspect of the SEPP.

85 Development immediately adjacent to rail corridors

- (1) *This clause applies to development on land that is in or immediately adjacent to a rail corridor, if the development:*
- (a) *is likely to have an adverse effect on rail safety, or*
 - (b) *involves the placing of a metal finish on a structure and the rail corridor concerned is used by electric trains, or*
 - (c) *involves the use of a crane in air space above any rail corridor.*
- (2) *Before determining a development application for development to which this clause applies, the consent authority must:*
- (a) *within 7 days after the application is made, give written notice of the application to the chief executive officer of the rail authority for the rail corridor, and*
 - (b) *take into consideration:*
 - (i) *any response to the notice that is received within 21 days after the notice is given, and*
 - (ii) *any guidelines that are issued by the Director-General for the purposes of this clause and published in the Gazette.*

As discussed above, a referral was sent to Rail Corp and no response was received within the statutory 21 day time frame (or at all). An enquiry was made to the Rail Corp who advised that the development was not considered to be close enough to the rail corridor to be classified as concurrent and therefore no response would be required.

87 Impact of rail noise or vibration on non-rail development

- (1) *This clause applies to development for any of the following purposes that is on land in or adjacent to a rail corridor and that the consent authority considers is likely to be adversely affected by rail noise or vibration:*
- (a) *a building for residential use,*

- (b) *a place of public worship,*
 - (c) *a hospital,*
 - (d) *an educational establishment or child care centre.*
- (2) *Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Director-General for the purposes of this clause and published in the Gazette.*
- (3) *If the development is for the purposes of a building for residential use, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:*
 - (a) *in any bedroom in the building—35 dB(A) at any time between 10.00 pm and 7.00 am,*
 - (b) *anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

To address this cause of the SEPP, the applicant has submitted an acoustic report which additionally addresses vibration. The report concludes that the proposal can comply with the above mentioned requirements subject to recommendations relating to construction treatment. Although not required by the SEPP, the acoustic report additionally assesses acoustic impacts from noises associated with the use of the school on the adjoining properties in Borambil Street. The report concluded that the proposal is satisfactory in this respect when considering the relevant state criteria.

101 Development with frontage to classified road

- (1) *The objectives of this clause are:*
 - (a) *to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
 - (b) *to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*
- (2) *The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:*
 - (a) *where practicable, vehicular access to the land is provided by a road other than the classified road, and*
 - (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) *the design of the vehicular access to the land, or*
 - (ii) *the emission of smoke or dust from the development, or*

(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and

(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

The site has a frontage to the Pacific Highway which is a classified road. The proposed development is considered to be largely consistent with the above requirements, as noted previously in this report. In addition, a traffic report has been submitted with the application and has been considered acceptable by Council's Development Engineer. The proposal does not create any new vehicular access points (other than what exist) and it is noted that the RMS has raised no objection to the proposal.

102 Impact of road noise or vibration on non-road development

(1) This clause applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of the RTA) and that the consent authority considers is likely to be adversely affected by road noise or vibration:

- (a) a building for residential use,*
- (b) a place of public worship,*
- (c) a hospital,*
- (d) an educational establishment or child care centre.*

(2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Director-General for the purposes of this clause and published in the Gazette.

(3) If the development is for the purposes of a building for residential use, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

- (a) in any bedroom in the building—35 dB(A) at any time between 10 pm and 7 am,*
- (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

*(4) In this clause, **freeway**, **tollway** and **transitway** have the same meanings as they have in the Roads Act 1993.*

To address the above requirements, the applicant has submitted an acoustic assessment prepared by Acoustic Logic. The report includes recommended

construction techniques and states that the proposal will achieve the above mentioned noise guideline requirements, subject to those construction techniques. The proposal is therefore considered to be satisfactory in this respect.

State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of SEPP 55 require Council to consider the potential for a site to be contaminated. The applicant's statement of environmental effects has addressed SEPP 55 and states the following:

"The site is currently used for educational purposes and a brief review of historically records including 1939 and 1948 aerial photography together with KGS archives indicates that the site was previously used for residential purposes between 1910 and 1998 and therefore is unlikely to have been for past contaminating activities during the last century."

A review of previous development application revealed that a contamination study was prepared in support of development application DA730/08 for "New residential boarding facility, first aid clinic and laundry". A review of the report has indicated that elevated levels of contaminants were encountered in fill soil samples in that part of the site being the north-western corner of the site where the Pacific Highway meets Woodville Avenue. The report considered the risk to human life as being low and recommended further investigation. Whilst it is noted that the location of those works is a considerable distance from the proposal, a preliminary investigation should nevertheless be carried out in accordance with SEPP 55 as there is a history of contaminants being found on the site.

Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River

SREP 20 applies to land within the catchment of the Hawkesbury Nepean River. The general aim of the plan is to ensure that development and future land uses within the catchment are considered in a regional context. The Plan includes strategies for the assessment of development in relation to water quality and quantity, scenic quality, aquaculture, recreation and tourism.

The proposed development is considered to achieve the relevant aims under this policy on the basis of the proposal not being located within close proximity to a waterway and Council's Development Engineers have indicated that the proposal satisfactory deals with stormwater drainage.

Ku-ring-gai Planning Scheme Ordinance

The area of the site which is to be developed is zoned Special Uses 5(a) (School) under the KPSO. An educational establishment is defined as

"a building used or intended for use as a school, college, technical college, academy, lecture hall, gallery or museum, but does not include a building used or intended for use wholly or principally as an institution."

A school is defined as an educational establishment.

The works proposed are permissible with consent.

Clause 33 – Aesthetic appearance

The subject site fronts Pacific Highway which is a main road. The clause requires consideration of the aesthetic appearance of the proposed building when viewed from the Pacific Highway. It is noted that the proposal is located approximately 80 metres (at closest point) from the Pacific Highway and will only be apparent from limited vantage points. The architectural merit when viewed from the Pacific Highway is considered to be satisfactory.

Clause 61E – Development in the vicinity of heritage items

As noted previously in this report, the proposal is within proximity of heritage items located at 2 Borambil, 6 Borambil, 32 Heydon, 34 Heydon, and 1485 to 1493 Pacific Highway. The application has been considered by Council's Heritage Advisor who has raised concerns regarding the proposed development and impact upon the heritage item located particularly at 2 Borambil Street and the draft HCA pursuant of DLEP 218. The proposal is therefore considered unsatisfactory in this respect.

DRAFT BIODIVERSITY AND HERITAGE LAND LEP

In accordance with Section 79C (1) (ii) of the Environmental Planning and Assessment Act 1979, the consent authority is to take into consideration any relevant matter under the above mentioned draft LEP as it was publically exhibited between January 30 and February 27, 2012. The subject site is identified within the Draft Natural Resource –Biodiversity Map as being subject to the Biodiversity provision of the planning proposal. The Biodiversity provisions within draft document are as follows:

“Biodiversity Protection

(1) The objective of this clause is to protect, maintain and improve the diversity and condition of native vegetation and habitat, including:

(a) protecting biological diversity of native flora and fauna, and

(b) protecting the ecological processes necessary for their continued existence, and

(c) encouraging the recovery of threatened species, communities, populations and their habitats, and

(d) protecting, restoring and enhancing biodiversity corridors.

(2) This clause applies to development on land that is identified as “Areas of Biodiversity Significance” on the Natural Resources - Biodiversity Map.

(3) Before granting development consent for development on land to which this clause applies, the consent authority must consider:

(a) the impact of the proposed development on the following:

- (i) any native vegetation community,*
- (ii) the habitat of any threatened species, population or ecological community,*
- (iii) any regionally significant species of plant, animal or habitat,*
- (iv) any biodiversity corridor,*
- (v) any wetland,*
- (vi) the biodiversity values within any reserve,*
- (vii) the stability of the land, and*

(b) any proposed measure to be undertaken to ameliorate any potential adverse environmental impact, and

(c) any opportunity to restore or enhance remnant vegetation, habitat and biodiversity corridors.

(4) Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied that the development:

(a) is consistent with the objectives of this clause, and

(b) is designed, and will be sited and managed, to avoid any potential adverse environmental impact or, if a potential adverse environmental impact cannot be avoided:

- (i) the development minimises disturbance and adverse impacts on remnant vegetation communities, habitat and threatened species and populations, and*
- (ii) measures have been considered to maintain native vegetation and habitat in parcels of a size, condition and configuration that will facilitate biodiversity protection and native flora and fauna movement through biodiversity corridors, and*
- (iii) the development avoids clearing steep slopes and facilitates the stability of the land, and*
- (iv) measures have been considered to achieve no net loss of significant vegetation or habitat.*

(5) In this clause:

biodiversity corridor means an area to facilitate the connection and maintenance of native flora and fauna habitats. Within the urban landscape, biodiversity corridors may be broken by roads and other urban elements and may include remnant trees and associated native and exotic vegetation.”

As noted in the comments made by Council’s Ecological Assessment Officer above, the proposal is considered to result in an unsatisfactory outcome for the

Sydney Bluegum High Forest Critically Endangered Ecological Community. The proposal therefore is not considered to meet the above-mentioned requirements and is not supported.

The subject site is further identified within area "C2" on the Heritage Conservation Map. The relevant heritage provisions within draft document are as follows:

61D (1) Objectives

The objectives of this clause are as follows:

- (a) to conserve the environmental heritage of Ku-ring-gai Council,*
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) to conserve archaeological sites,*
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.*

(2) Requirement for consent

Development consent is required for any of the following:

- (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):*
 - (i) a heritage item,*
 - (ii) an Aboriginal object,*
 - (iii) a building, work, relic or tree within a heritage conservation area,*
- (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 7 in relation to the item,*
- (c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,*
- (d) disturbing or excavating an Aboriginal place of heritage significance,*
- (e) erecting a building on land:*
 - (i) on which a heritage item is located or that is within a heritage conservation area, or*
 - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,*
- (f) subdividing land:*
 - (i) on which a heritage item is located or that is within a heritage conservation area, or*

(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.

(4) Effect of proposed development on heritage significance

The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

(5) Heritage assessment

The consent authority may, before granting consent to any development:

(a) on land on which a heritage item is located, or

(b) on land that is within a heritage conservation area, or

(c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

Heritage conservation area statements of Significance

1. Wahroonga Conservation Area

Wahroonga Heritage Conservation Area is of heritage significance for its distinctive residential streetscapes which evidence the transformation of early subdivisions of the 1890s into the later rectilinear grid lot street and lot pattern of later subdivisions including the Wahroonga Heights Estate. The area contains a significant collection of grand residences from the Federation and Inter-war periods, built following the opening of the North Shore railway line in 1890, many of these the residences of prominent families of this period, and often designed by prominent architects, for example the 1894 Ewan House (formerly Innisfail) designed by architect Herbert Wardell for John Thomas Toohey, and eleven houses designed by the architect Howard Joseland. The western end of Burns Road and western side of Coonanbarra Road are representative streetscapes of intact more modest Federation period houses.

The through-block pathways and formal avenues of street trees within the area (in Burns Road, Water Street and Coonanbarra Road) along with the formal landscaping of Wahroonga Park, and its distinctive John Sulman-designed shops in Coonanbarra Road facing the Park, are a tribute to the work of the Wahroonga Progress Association in the early 20th century (which included Sulman as a member), and have resulted in a high-quality and distinctive residential landscape.

As previously noted within this report, Council's Heritage Advisor is not supportive of the proposal and it is considered to result in adverse impacts on the adjoining heritage items and the draft Heritage Conservation Area.

POLICY PROVISIONS

Schools Development Control Code

Section 3 Aims of the code

The aims of the School Development Control Code are:

- a) *To encourage schools to work towards a master plan for the overall development of the school site at a standard in keeping with the nature of the surrounding areas and the Municipality in general.*
- b) *To encourage schools to consider future growth and direction of development of the site in relation to buildings, enrolment numbers, playground area and amenities and to recognise any limitations imposed by site characteristics and surrounding development pattern at an early stage.*
- c) *To discourage piecemeal growth of development and intensification of density on fixed sites to the detriment of facilities for the pupils and amenity of surrounding owners/residents.*
- d) *To encourage via forward planning, rational and logical placement of school buildings and amenities on school sites allowing for maximum flexibility with future additions and development while not decreasing beyond a reasonable standard pupils amenities and surrounding residents' amenity.*
- e) *To encourage schools to consider the amenity of surrounding owners or residents and the scale and density of adjoining development when consideration of buildings aesthetics, scale, height, location and aspect are undertaken.*
- f) *To not require existing substandard schools to improve the existing standard via reduction to numbers or purchase of land but to have any future development of these substandard schools at a higher standard than existing.*

Discussions were held with the applicant in relation to the need for a master plan for the site. The applicant indicated that a master plan will not be submitted as there is no need given the school has no intentions of further development at this stage for the rest of the site. The applicant has further indicated that a master plan would only show that in which the current plans show. It is not considered that all of the above aims have been met. This is discussed in greater detail below.

Section 4 Code for development of schools

a) Playground area

The proposal fails to adequately demonstrate whether there is sufficient playground area on site in accordance with the requirements of Clause 4(a) under the Schools Development Control Code. The applicant has provided a calculation indicating compliance with an area of 21.9m² per student (20.5m² required), however, this calculation has not been graphically substantiated noting the exclusions areas contained within the above mentioned control.

b) Site area

The above control requires that the minimum area of the site is to be such to allow provision of the minimum standard of playground space, plus those areas necessary for building, and the provision of parking and essential services. As a guide a figure of 28 square meters per child is used, however, the assessment must give appropriate weight to the nature of the site.

The applicant has nominated a site area of 68,032m² and a student number of 1394 which equates to a ratio of 48.80m² per student. It is considered that the site area is sufficient for the use (noting it is existing and the student numbers are not increasing) however, as noted above, further consideration is required in relation to the playground area provided as a result of the proposed works.

c) Car parking

The car-parking assessment has been combined with DCP 43 addressed elsewhere in this report and the proposal deemed to be satisfactory in this respect.

d) Buildings and landscaping

The above section of the Schools Development Control Code requires a proposal for additions, alterations and new buildings to be considered in light of their effect on adjoining properties and in particular, consideration will be given to shadows, overlooking, noise factors, proximity to adjoining development and visual amenity. The control further stipulates that the use of landscaping is encouraged and may be necessary in certain cases for the purposes of screening.

The application has been supported with shadow diagrams which indicate that overshadowing will not impact on any adjoining residential properties. The proposal is therefore considered to be satisfactory in that respect. In relation to visual privacy, the building is located at a distance of approximately 25 metres from the adjoining property at 2 Borambil Street which is considered to be sufficient to avoid privacy impacts.

As noted earlier within this report, the applicant has submitted an acoustic assessment which concludes that the proposal will have acceptable impacts on adjoining residential properties and will itself provide appropriate amenity from impacts associated with the Pacific Highway and the rail corridor.

In relation to proximity to adjoining development and visual amenity, concerns have been raised by Council's Heritage Advisor in terms of the scale of the building in relation to the adjoining residential property being the heritage item at 2 Borambil Street and the draft Heritage Conservation Area pursuant of DLEP 218. Council's Urban Design Consultant has additionally indicated that changes to the roof pitch would reduce the impacts of scale upon the street.

e) Environmental impact assessment

The above requirements of the Schools Development Control Code relates to the provision of a master plan which has previously been discussed.

Traffic and Transport Policy

Council's Traffic and Transport Policy encourages the use of public transport and walking where appropriate. The Policy encourages schools to manage school traffic so that it does not impact upon the community.

The application does not address Council's Traffic and Transport Policy, in particular Section K – School safety and Section O - Development proposal requirements however, the traffic and parking assessment indicates that over 80% of students use the rail network to and from school. The proposal is considered to be acceptable in this respect.

Development Control Plan No. 31 Access

Matters for assessment under DCP 31 have been taken into account in the assessment of this application. Specifically the applicant has submitted an accessibility report in support of the development application. The report concludes that the proposal is satisfactory and able to meet the Australian Standards for Access and Mobility.

Development Control Plan No. 40 - Construction and Demolition Waste Management

Matters for assessment under DCP 40 have been taken into account in the assessment of this application and the proposal is satisfactory in this regard.

Development Control Plan No. 43 - Car Parking

Matters for assessment under DCP 43 have been taken into account in the assessment of this application and the proposal is satisfactory in this regard.

Development Control Plan No.47 - Water Management

Matters for consideration under DCP 47 have been taken into account in the assessment of this application and the proposal is satisfactory in this regard as previously discussed within this report.

Section 94 Plan

The development is not subject to a Section 94 Contribution.

LIKELY IMPACTS

The likely impacts of the development have been considered within this report and it is considered that amendments are required to the design before consent can be granted.

SUITABILITY OF THE SITE

The site is part 2(c2) Residential and 5 (a) Special Uses (School). The proposed development is permissible within the zone, however, results in unsatisfactory impacts on the Blue Gum Critically Endangered Ecological Community, adverse impacts on adjoining heritage items and the Draft Heritage Conservation area due to the proposed height, and it is yet to be demonstrated that would be sufficient playground space left for the students post development.

ANY SUBMISSIONS

The matters raised in the submissions have been addressed in this report.

PUBLIC INTEREST

The approval of the application is not considered to be in the public interest for the reasons advanced below.

RECOMMENDATION

THAT the Sydney West Joint Regional Planning Panel, as the consent authority, refuse development consent to Development Application DA0587/11 for a New Senior Centre for Knox Grammar School at, 1499, 1495 Pacific Highway & 11 -17 Woodville Avenue, Wahroonga for the following reasons:

1. Unsatisfactory impact on the Bluegum High Forest (BGHF) Critically Endangered Ecological Community (CEEC)

Particulars:

- a) The proposal will result in a loss 823m² Blue Gum High Forest resulting in local extinction of BGHF within the site.
- b) The proposal will result in further fragmentation of Blue Gum High Forest which contributes to a decrease in ecological processes which contributes to the survival of BGHF community.
- c) The proposal would result in exacerbation of key threatening process which further threaten the survival of BGHF community.

- d) The proposed mitigation measures of supplementary planting of Blue Gum High Forest can not be considered as part of the assessment process (DECC 2007/363).
- e) The impact assessment (7-part test) has not adequately considered the extent of impacts of the proposal on the local occurrence of Blue Gum High Forest.
- f) The impacts of proposal upon Blue Gum High Forest in accordance with the factors of the assessment as set out under section 5a part 2 factors c (i) (ii), d (ii) (iii) & g of the Environmental Planning & Assessment Act 1979 have not been adequately assessed.
- g) The proposal is contrary to part 1, section 3, objectives a, b, d & f of the Threatened Species Conservation Act 1995 (TSC Act 1995).
- h) No species impact statement has been prepared for the development. A species impact assessment is considered to be necessary due to the significant impacts of the proposal upon Blue Gum High Forest community, in accordance Part 4 Division 2, Section 78A part (8b) of the Environmental Planning & Assessment Act 1979.
- i) Insufficient information has been provided in relation to proposed Blue Gum High Forest impact offsets.
- j) The submitted application has not given any consideration to the biodiversity provisions contained within Draft LEP 218.

2. Unsatisfactory impacts on Existing Sydney Blue Gum trees

Particulars:

- a) The removal of Tree's 1 & 3 – 2 x Eucalyptus saligna (Sydney Blue Gum) is not supported as acceptable justification has been provided to allow their removal.
- b) The removal of Tree 4 – Eucalyptus saligna (Sydney Blue Gum) is not supported as it has not been adequately demonstrated that the tree cannot be retained with the construction of the new retaining wall adjacent to the tree. Furthermore, should it be ascertained that the tree can be retained, amendments would be required to the Seniors Centre to retain the tree.
- c) The impacts on Tree 9 – Eucalyptus saligna (Sydney Blue Gum) are significant to the point where its retention is not possible.
- d) The removal of 3 x Eucalyptus saligna (Sydney Blue Gum) and significant impact on or potential removal of 1 x Eucalyptus saligna (Sydney Blue Gum) deemed to be healthy and have high landscape

and ecological significance, is not in accordance with clauses 1.2 & 2.5.1 of School Facilities Standards – Landscape Standard – Version 22/03/02.

3. Unsatisfactory impacts on adjoining heritage items and the Draft Heritage Conservation Area

Particulars:

- a) The application has not given any consideration to the Draft Heritage Conservation Area contained within Draft LEP 218.
- b) The scale of the proposed development is not consistent with the existing character of Borambil Avenue which would detrimentally affect the adjoining heritage item at 2 Borambil Street and the heritage significance of the Draft HCA.
- c) The proposal is not consistent with the requirements of Clause 61E of the KPSO due to the adverse impacts on adjoining heritage items.

4. Unsatisfactory visual impacts on Borambil Street as a result of insufficient front setback, excessive height and associated scale

Particular:

- a) The proposal is considered to be too high and too close to Borambil Street and this would result in adverse impacts on the character of the residential area.

5. The application has not demonstrated compliance with the Schools facilities standards as required by SEPP (Infrastructure) 2007

Particular:

- a) Clause 32 of SEPP (Infrastructure) 2007 requires consideration to be given to the standards contained within the Schools Facilities Standards to which the applicant has not addressed as part of the application.

6. The proposal fails to meet requirements contained within the Kur-ring-gai Schools Development Control Code

Particulars:

- a) The proposal results in the reduction of playground area by approximately 1,600m² and it is yet to be demonstrated that the required space is available for the playground area based on existing student numbers as required under part 4 a) of the schools development code.
- b) The proposal would result in a building which has an unsatisfactory visual

amenity from nearby residential properties which contradicts the requirements of part 4 d) of the Ku-ring-gai Schools Development Control Code.

7. Inadequate investigation pursuant of SEPP 55 (Remediation of Land)

Particular:

- a) Contaminants have previously been identified within the subject site which warrants a preliminary investigation to be carried out in accordance with SEPP 55. No preliminary investigation has been carried out as part of this application.

8. The proposal is non-compliant with the Building Code of Australia (BCA)

Particular:

- a) The proposal does not provide sanitary facilities in accordance with Table F2.3. of the BCA.

Grant Walsh
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Team Leader Development Assessment

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Manager Development Assessment

Michael Miocic
Director Development and Regulation

- Attachments:**
- 1. Location sketch
 - 2. Ku-ring-gai Planning Scheme Zoning Extract
 - 3. Architectural plans
 - 4. Landscape plans
 - 5. Building height analysis plan
 - 6. Setback analysis plan
 - 7. Ecology impact assessment table (7-Part test)
 - 8. Urban design comments