

DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	
FILE No.	DA 315/2015/1
ADDRESSES	163A Victoria Rd Bellevue Hill (Bellevue Hill Public School) and 19A Bellevue Park Rd, Bellevue Hill (Bellevue Park)
SITE AREA	7214m ² (Bellevue Hill Public School)
ZONING	SP2 Infrastructure
PROPOSAL	Expansion and upgrade works to Bellevue Hill Public School to facilitate an increase in student numbers from 550 to 1000, an increase in staff numbers from 37 to 72, to provide upgraded /expanded facilities and the temporary relocation of 3 demountable buildings to the adjoining Bellevue Park
TYPE OF CONSENT	Local development
COST OF WORKS	\$12,860,684
DATE LODGED	18/06/2015
APPLICANT	Mr B Crompton
OWNER	NSW Department of Education and Communities (Bellevue Hill Public School) NSW Department of Primary Industries-Crown Lands (Bellevue Park)
AUTHOR	Mr D Booth
TEAM LEADER	Ms E Smith
RECOMMENDATION	Refusal

1. CONSENT AUTHORITY FOR CROWN DEVELOPMENT APPLICATIONS

The subject development application is a Crown development application under the provisions of Part 4, Division 4 of the Environmental Planning and Assessment Act 1979. A **Crown development application** means a development application made by or on behalf of the Crown, in this case the NSW Department of Education.

The provisions of Schedule 4A of the Environmental Planning and Assessment Act 1979 state that the Joint Regional Planning Panel (JRPP) may be the consent authority for Crown development that has a capital investment value of more than \$5 million. The subject Crown development proposal has a stated capital investment value of \$12,860,684.

The provisions of Section 89 of Part 4, Division 4 of the Environmental Planning and Assessment Act 1979 state (the relevant provisions have been put in bold):

89 Determination of Crown development applications

(1) A consent authority (other than the Minister) must not:

- (a) refuse its consent to a Crown development application, except with the approval of the Minister, or**
 - (b) impose a condition on its consent to a Crown development application, except with the approval of the applicant or the Minister.**
- (2) If the consent authority fails to determine a Crown development application within the period prescribed by the regulations, the applicant or the consent authority may refer the application:**
 - (a) to the Minister, if the consent authority is not a council, or**
 - (b) to the applicable regional panel, if the consent authority is a council.**
- (2A) A Crown development application for which the consent authority is a council must not be referred to the Minister unless it is first referred to the applicable regional panel.**
- (3) An applicable regional panel to which a Crown development application is referred may exercise the functions of the council as a consent authority (subject to subsection (1)) with respect to the application.**
- (4) A decision by a regional panel in determining a Crown development application is taken for all purposes to be the decision of the council.**
- (5) If an applicable regional panel fails to determine a Crown development application within the period prescribed by the regulations, the applicant or the panel may refer the application to the Minister.**
- (6) The party that refers an application under this section must notify the other party in writing that the application has been referred.**
- (7) When an application is referred under this section to an applicable regional panel or the Minister, the consent authority must, as soon as practicable, submit to the panel or the Minister:**
 - (a) a copy of the development application, and**
 - (b) details of its proposed determination of the development application, and**
 - (c) the reasons for the proposed determination, and**
 - (d) any relevant reports of another public authority.**
- (8) An application may be referred by a consent authority or applicable regional panel before the end of a relevant period referred to in subsection (2) or (5).**

As such, the JRPP is unable to refuse the subject Crown development application without first referring the matter to and obtaining the approval from the Minister.

In the event that the JRPP concur with the recommendation for refusal, the JRPP will forward a copy of the development application, assessment report and relevant reports of other public authorities to the Minister in accordance with the above-mentioned provisions.

In the event that the JRPP adopts the recommendation for the refusal of the subject Crown development application and the matter is referred to the Minister, the following provisions of Section 89A of Part 4, Division 4 of the Environmental Planning and Assessment Act 1979 apply:

89A Directions by Minister

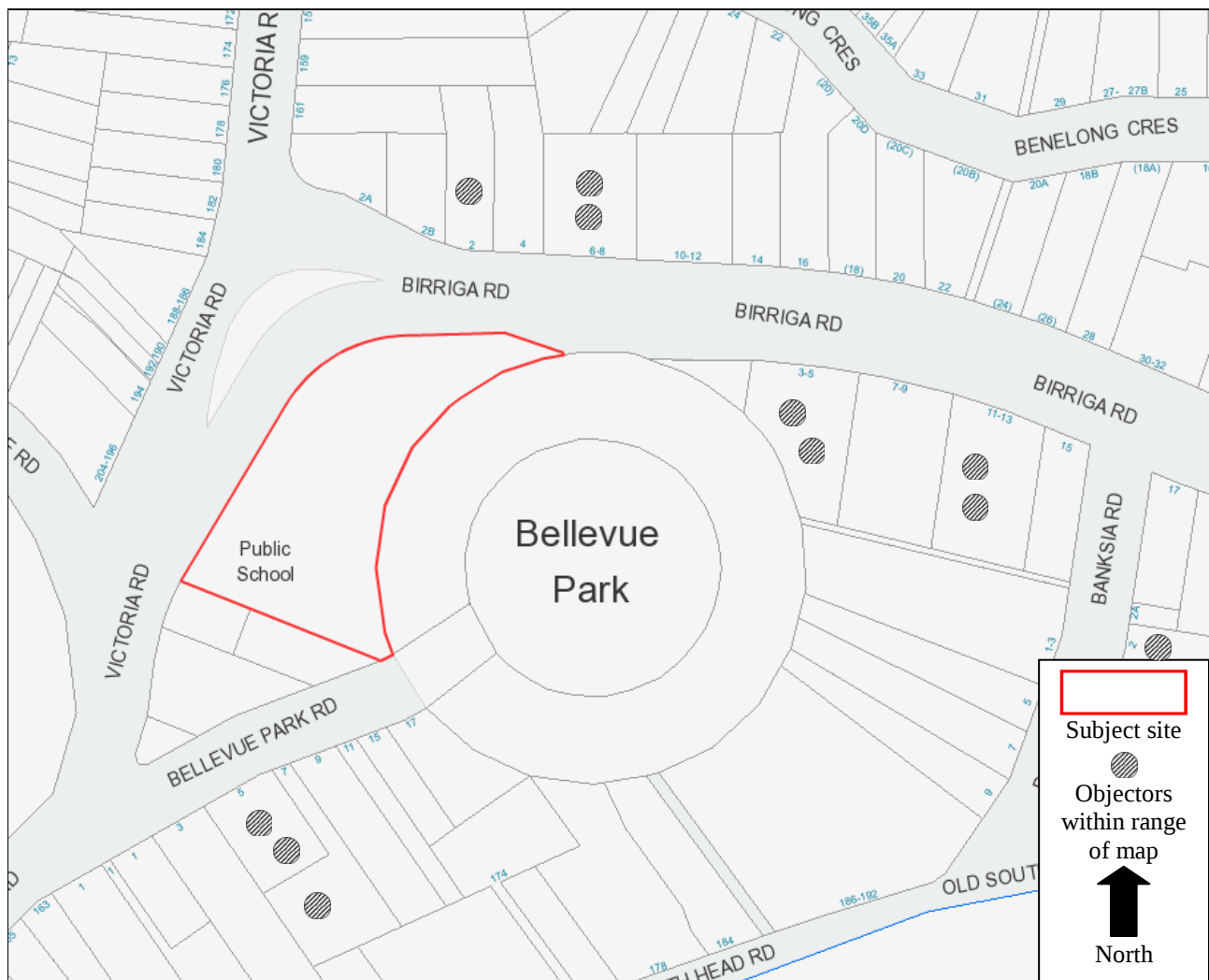
- (1) On a referral being made by a consent authority or an applicable regional panel, or an applicant, to the Minister under this Division, the Minister may direct the relevant consent authority, within the time specified in the direction:
 - (a) to approve the Crown development application, with or without specified conditions, or*
 - (b) to refuse the Crown development application.**
- (2) A consent authority must comply with a direction by the Minister.*
- (3) If the consent authority fails to comply, the consent authority is taken, on the last date for compliance specified in the direction, to have determined the Crown development application in accordance with the Minister's direction.*
- (4) Despite subsection (2), a consent authority may vary a condition specified by the Minister with the approval of the applicant.*

2. BACKGROUND

Council staff met with the applicant and associated consultants and Department of Education representatives on 3 occasions (14 December 2014, 14 April 2015 and 7 September 2015) where concerns predominantly regarding traffic/parking and tree impacts were discussed. The JRPP was also briefed in relation to Council's concerns on 2 September 2015. The applicant and associated consultants and Department of Education representatives were present at the briefing.

It was requested that the proposal be amended in order to protect/retain several existing fig trees (in particular a significant Port Jackson Fig tree located in Bellevue Park), to facilitate the drop-off/pick-up of children and additional car parking on-site and to address heritage related concerns. Further, the heritage impact statement submitted with the DA stated that the remains of a Headmaster's cottage have been found at the subject site. Documentation illustrating where these remains are located and an assessment of the archeological potential of the affected area was also requested. These requests were formally declined on 10 September 2015.

3. LOCALITY PLAN



A total of 19 objections were received.

4. PROPOSAL

The proposal is for expansion and upgrade works to the Bellevue Hill Public School to accommodate an increase in student numbers from 550 to 1000, increase staff numbers from 37 to 72 and to provide updated/expanded facilities including classrooms, library, study space, canteen, covered outdoor learning area (COLA) and administration facilities.

To accommodate this, 4 minor buildings are proposed to be demolished, the 3 retained buildings refurbished, the existing southern-most building extended approximately 14m to the west and a 4 storey main building constructed within the northern section of the site fronting Birriga Road. A seated outdoor passive open space area (essentially an amphitheatre) is based on the southern side of the main building. The proposal involves a total of 2927m² of additional gross floor area.

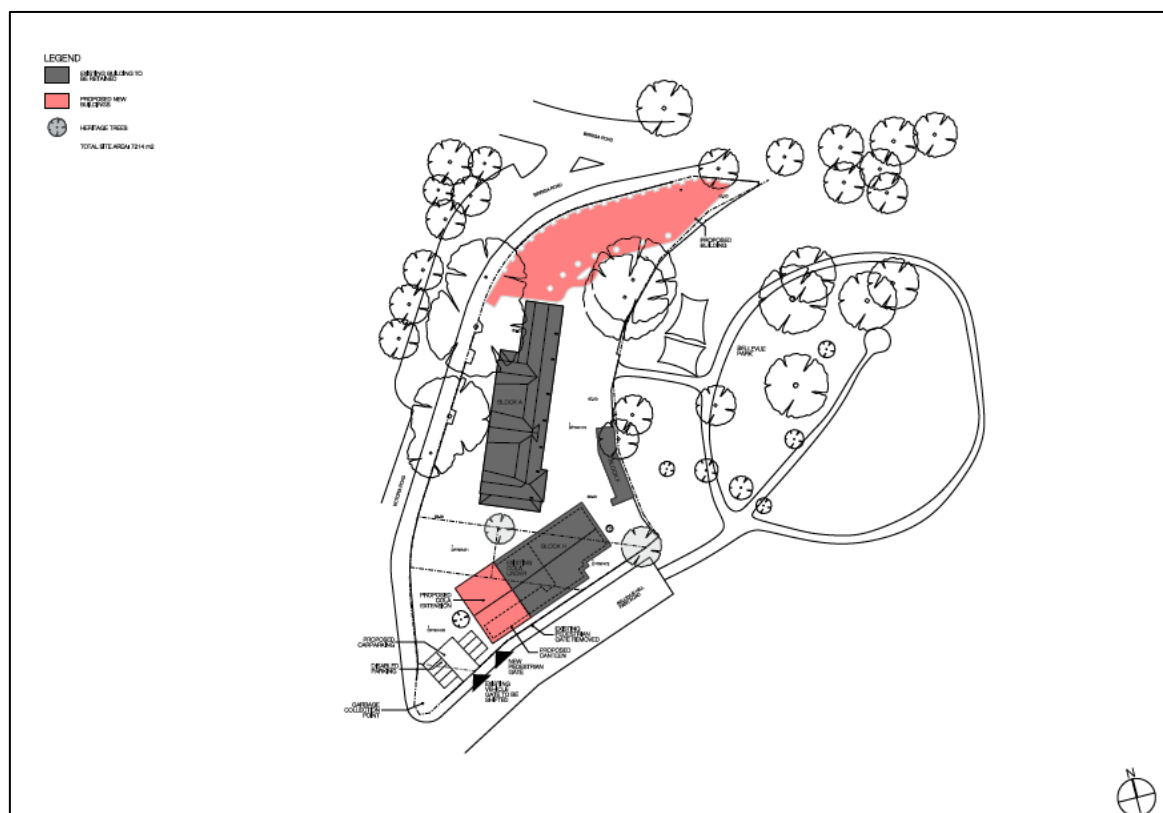
To facilitate the proposed new main building, the 3 substantial Hills Weeping Fig trees located within the subject site are proposed to be removed and a substantial Port Jackson Fig tree located in Bellevue Park is proposed to be substantially pruned (approximately 50%).

Eight existing demountable structures on site are proposed to be removed, 3 of which are proposed

The school will continue to operate during normal operating hours. The morning drop-off will generally occur from 8.30am onwards and afternoon pick-up will occur from 3pm. Whilst it is proposed to continue the existing drop-off and pick-up of children on the kerbside of the adjoining side access roadway to the west of the school with waiting vehicles queueing down Birriga Road, several initiatives are proposed in an attempt to reduce vehicle queueing including the provision of 4 additional spaces at the head of the drop-off and pick-up zone via an indentation into the kerb, a 5 minute parking/waiting restriction and the preparation and implementation of a green travel plan. It is also requested that Council consider restricting the 23 currently unrestricted on-street parking along the western side of the access roadway, widening the exit onto Birriga Road from the access road immediately adjacent to the main frontage, (west) of the school to 2 lanes and allowing school traffic to use the Buses Only Lane at the junction of the access road with Victoria Road.

Occasional special events associated with Education Week, Harmony Day, presentation days and assemblies etc within the school grounds, with parents and community members in attendance, are proposed as is the use of buildings and/or the school grounds for after school hour classes and weekend markets. However, specific details of the proposed weekend markets have not been provided.

Site plan



Photomontage



5. ISSUES

- Adverse local traffic impacts due to anticipated additional queueing predominately during afternoon pick-up times;
- Insufficient off-street car parking provision and associated increased demand for on-street car parking within the locality;
- Excessive pruning (approximately 50%) and consequential reduced lifespan and limb failure of a significant Port Jackson Fig tree located in Bellevue Park and the loss of all 3 Hills Weeping Fig trees from the subject site, associated loss of landscaped character/amenity to Bellevue Park and the local streetscape and the associated loss of foraging habitat for the vulnerable listed Grey-Headed Flying Fox;
- Heritage related issues;
- Unsatisfactory site drainage details;
- Specific details of the proposed weekend markets have not been provided;
- Public interest;
- Overshadowing of the proposed outdoor passive recreation area;
- Objectors' concerns.

6. DESCRIPTION OF SITE AND LOCALITY



The Bellevue Hill Public School is located on the south-eastern side of the intersection of Birriga and Victoria Roads, Bellevue Hill and encircles the western side of Bellevue Park. The school is located to the east of Victoria Road and to the south of Birriga Road. Immediately adjacent to the main frontage, (west) of the school is an access road that was originally a cutting made for the previous tram line. This access road off Birriga Rd has restricted access to Victoria Road (buses only), is used by school traffic to pick-up/drop-off children and contains 23 unrestricted and 3 x 1 hour 8-9:30 am and 2.30-4 pm school days restricted public parking car spaces along its north-western side.

The main existing 2 storey “Block A” building addressing the western frontage accommodates approximately 330 pupils. Eight existing demountable classrooms accommodate a further 220 pupils, resulting in a total of 550 pupils on site. The single storey “Block H” building occupying the southern frontage contains a covered outdoor learning area (COLA). The single-storey “Block F” building containing toilets adjoins the eastern boundary of the site.

A row of 3 substantial Hills Weeping Fig trees are located in the north-eastern section of the site adjacent to Bellevue Park. A substantial Port Jackson Fig tree is located in the north-western section of Bellevue Park adjacent to the subject site, essentially merging with the northern extent of the canopy of the row of 3 Weeping Hill Fig trees. Surrounding development consists predominantly of 3-4 storey residential flat buildings.

7. REFERRALS

Internal Referral Officer	Comment	Annexure
Traffic Engineer	Unsatisfactory in terms of adverse traffic impacts due to anticipated additional queueing predominantly during afternoon pick-up times and insufficient off-street car parking provision.	2
Development Engineer	Unsatisfactory in terms of the proposed site drainage.	2
Team Leader-Tree Department	Unsatisfactory due to excessive pruning (approximately 50%) and consequential reduced lifespan and limb failure of a significant Port Jackson Fig tree located in Bellevue Park, the loss of all 3 Hills Weeping Fig trees from the subject site to facilitate the main new building and associated significant adverse impacts upon the landscaped character/amenity of the locality.	3
Heritage Officer	Unsatisfactory due to potential adverse impacts upon the heritage significance of the main existing school building and the absence of an Archaeological Assessment.	4
Manager-Community Development	Satisfactory, subject to the provision of adequate additional out of school hours care due to the proposed additional 450 students and the associated provision of regulated indoor and outdoor space requirements.	5
Senior Environmental Health Officer	Satisfactory, subject to conditions.	6
Fire Safety Officer	Satisfactory, subject to conditions.	7
Urban Design Officer	Unsatisfactory due to adverse visual impacts upon Bellevue Park and the streetscape, overshadowing of the proposed outdoor passive recreation area immediately to the south of the proposed main building and adverse social and environmental impacts associated with the centralised provision of primary schooling.	8
Senior Sustainability Officer	Unsatisfactory due to the loss/severe impact upon one existing Port Jackson Fig and three Hills Weeping Fig trees resulting in the loss of foraging habitat for the vulnerable listed Grey-Headed Flying Fox.	9
Team Leader-Open Space & Recreation Planning	The proposed temporary relocation of 3 demountable buildings to Bellevue Park is supported subject to conditions. However, the proposed removal/adverse impact upon the 4 substantial fig trees are not supported due to adverse visual amenity impacts upon Bellevue Park.	10
Senior Property Officer	The proposed temporary relocation of 3 demountable buildings to Bellevue Park is supported subject to conditions.	11

External Referral Body	Comment	Annexure
Roads and Maritime Services (Traffic generating development)	Council is to ensure that adequate off-street car parking is provided. Otherwise, satisfactory subject to conditions.	12
Sydney Water	Satisfactory, subject to conditions.	13
Ausgrid	Satisfactory, subject to conditions.	14
State Transit	State Transit does not agree to the proposed opening of the slip lane from Birriga Rd into Victoria Rd during any period of the day to other traffic except buses.	15

ENVIRONMENTAL ASSESSMENT UNDER S.79C

The relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act 1979 include the following:

1. The provisions of any environmental planning instrument
2. The provisions of any proposed instrument that is/has been the subject of public consultation
3. The provisions of any development control plan

4. Any planning agreement that has been entered into
5. Any draft planning agreement that a developer has offered to enter into
6. The regulations
7. Any coastal zone management plan
8. The likely impacts of that development:
 - i) Environmental impacts on the natural and built environments
 - ii) Social and economic impacts
9. The suitability of the site
10. Any submissions
11. The public interest

8. ADVERTISING AND NOTIFICATION

8.1 Submissions

In accordance with Parts 3 and 4 of the Woollahra Advertising and Notification DCP, the development application was notified extensively and advertised from 15/07/2015 to 13/08/2015.

Submissions (all objections) were received from:

1. J Nash-4/6-8 Birriga Rd, Bellevue Hill
2. K Scott-6/8 Benelong Crescent Bellevue Hill
3. S Patterson-168 Victoria Road Bellevue Hill
4. A & R Cable-5/6 Birriga Rd, Bellevue Hill
5. J & E Brown-172 Victoria Road Bellevue Hill
6. H Heydt-6/11-13 Birriga Rd, Bellevue Hill
7. R Collins-3/3-5 Birriga Rd, Bellevue Hill
8. F Hersov-86 Bundarra Rd, Bellevue Hill
9. V Owens-1/7 Bellevue Park Rd, Bellevue Hill
10. B Willmore-6/3 Birriga Rd, Bellevue Hill
11. P Marmini Murgia-12a/2 Birriga Rd, Bellevue Hill
12. J Chimes 5/5 Bellevue Park Rd, Bellevue Hill
13. L & E Broyda-4/5 Bellevue Park Rd, Bellevue Hill
14. H Dimitriadis-7A/13-17 Bellevue Rd, Bellevue Hill
15. J Tomi 3/29 Drumalbyn Rd, Bellevue Hill owner of 8/151 Victoria Road Bellevue Hill
16. T Moss-4 Lennox St, Bellevue Hill
17. M & M Troha-8/11-13 Birriga Rd, Bellevue Hill
18. H Herz-3/206A Victoria Road Bellevue Hill
19. C Dawes-Leading Senior Constable Traffic Supervisor Rose Bay Police Station

The above objectors raised the following concerns:

- *Adverse traffic and parking impacts upon the local road network, in particular Birriga, Banksia, Victoria and Bellevue Roads. A pick-up and drop-off zone should be provided on site and more off-street car parking should be provided on-site. Public transport (buses) are unreliable and inadequate and often do not stop at the school due to overcrowding.*
- *Traffic safety/public interest concerns associated with children negotiating parked/ queued vehicles and traffic having to cross the centre lines of Birriga and Banksia Roads to overtake the queues of double parked vehicles.*

- ***Illegal car parking on private properties and across driveways.***

Council's Traffic Engineer is of the opinion that the pick-up/drop-off should be facilitated on-site and an additional 26 car parking spaces should be provided on-site. Such requests were formally declined on 10 September 2015.

- ***Additional noise from the additional children.***
- ***Impact of construction noise on school children, staff and local residents;***

Council's Environmental Health Officer has reviewed the acoustic reports submitted with the development application and is satisfied that the proposed increase in student numbers would not have any significant adverse acoustic impacts upon adjoining residential properties and that construction works related noise could be adequately mitigated by the adoption of the acoustic strategies and procedures contained within a supplementary acoustic report submitted with the development application (this could be addressed by a condition of development consent).

- ***Inappropriate use of Bellevue Park for the temporary relocation of demountable buildings and associated adverse amenity impacts (noise and visual) upon Bellevue Park and damage to the park. The demountable buildings will remain in the park once put there.***

Council's Open Space and Recreational Planning Team Leader supports the temporary siting of 3 demountable buildings to within Bellevue Park, subject to conditions.

- ***Use of Bellevue Park as a playground is a threat to public safety.***

No intensification/additional use of Bellevue Park for school-related playground activities beyond that as existing has been applied for.

- ***Adverse impact upon the ecosystem of the park.***

Council's Senior Sustainability Officer considers the proposal is unsatisfactory due to the loss/severe impact upon 4 existing Port Jackson & Hills Weeping Fig trees resulting in the loss of foraging habitat for the vulnerable listed Grey-Headed Flying Fox.

- ***Adverse impacts upon existing trees/removal of trees on-site and in Bellevue Park.***

Council's Tree Department Team Leader and Open Space and Recreational Planning Team Leader do not support the proposed severe and fatal pruning (approximately 50% of the canopy) of a significant Port Jackson Fig tree located in Bellevue Park or the loss of all 3 Hills Weeping Fig trees from the subject site to facilitate the main new building. Requested amendments to the main building necessary to protect the Jackson Fig tree and to retain 1-2 of the Hills Weeping Fig trees were formally declined on 10 September 2015.

- ***The proposed main building is unsympathetic with the character/ heritage significance of the main school building and its landscaped setting.***

Council's Heritage Officer has raised heritage related concerns and requested the following amendments /additional information which were formally declined on 10 September 2015:

- Revise the form/increase the setback of the proposed new building from the Birriga Road boundary, to prevent obstruction of views to the significant Block A building and reduce the dominance of the new building form when viewed from Birriga and Victoria Roads.
- Provide details of the proposed portico and entrance stair to Block A, demonstrating that the form, character and materiality of the proposed portico will complement the Inter-war Free Classical architectural style of the existing building. Corrugated profile roof sheeting should be used for any roof structure to the portico.
- Provide an *Archeological Assessment* prepared by a suitably qualified and experienced Archaeologist (in accordance with any advice from the Office of Environment and Heritage, Heritage Division/ NSW Heritage Council).
- ***Excessive bulk and scale of the proposed main building/lack of landscaping to the Birriga Road frontage and associated adverse visual impacts upon the streetscape.***
- ***Inappropriate siting of the proposed main building. It should be relocated to the southern section of the site fronting Victoria Road.***
- ***Overdevelopment of the site.***

Council's Urban Design officer concurs with the above-mentioned concerns. Whilst it is considered that amendments to the main building necessary to protect the significant Port Jackson Fig tree located in Bellevue Park and to reduce the loss of visibility of the historic main building from the public domain would adequately mitigate adverse visual impacts, these requests were formally declined on 10 September 2015.

- ***Inadequate provision of soft landscape/playground area on-site.***
- ***Overdevelopment of the site.***

The NSW Department of Education has provided a statement that the proposal generally complies with the requirements of the Department of Education and Training's *Educational Facilities Standards and Guidelines* (EFSG), previously known as the *School Facilities Standards* including the provision of adequate indoor and outdoor facilities to accommodate the proposed increase to the school's population. No intensification/additional use of Bellevue Park for school-related playground activities beyond that as existing has been applied for.

- ***There is sufficient spare capacity in the surrounding schools of Bondi, Bondi Beach, Rose Bay and Double Bay but parents prefer Bellevue Hill Public School.***
- ***The proposal will predominantly service Waverley residents at the inconvenience of local residents.***

The justification provided by the applicant for the provision of 450 extra students at the Bellevue Hill Public School to service the increased demand for public primary school places generated by the sub-region is on the basis that it is the only school that has sufficient available space for significant expansion.

- ***Additional air pollution.***
- ***Additional litter from school children.***
- ***If the proposal is approved, parking enforcement and the prominent demarcation of driveway entrances is requested.***

These concerns are considered to be beyond the scope of this report.

- **Geotechnical/ subsidence and instability concerns in relation to Cooper Park.**

Council's Development Engineer has raised no objection to the proposal on this basis. It is considered that the proposed excavation is minor and beyond any zone of excavation influence in relation to Cooper Park.

8.2 Statutory Declaration

In accordance with Clause 4.5 of the Woollahra Advertising and Notification DCP, the applicant has completed the statutory declaration declaring that the site notice was erected and maintained during the notification period in accordance with the requirements of the DCP.

9. SEPP 55–Remediation of Land

As required Under Clause 7 (1) (a) of SEPP 55-Remediation of Land, consideration has been given as to whether the land is contaminated. Council's Environmental Health Officer has provided the following comments in this regard:

An in situ waste classification has been undertaken to assist in the disposal of surplus materials offsite. The waste classification did not include a contamination assessment or an assessment of the suitability of materials for re-use on the site.

The waste classification of the filling was conducted in accordance with the six step process as set out in the NSW EPA Waste Classification Guidelines – 2014; refer to Table 3 in the report. A summary of laboratory results together with the waste classification criteria are presented in Table 4 of Appendix F of the report.

Laboratory analysis showed that the concentrations of heavy metals, PAH, TPH, BTEX, PCB, OCP, OPP and Phenols were within the threshold criteria (CT1) for General Solid Waste (GSW) without toxicity characteristic leaching procedure (TCLP), except for exceedances of the threshold criteria for CT1, for lead and benzo(a)pyrene in all three samples, as well as for mercury and nickel in sample BH103/1.05-1.15 m. A summary of the TCLP test results together with the waste classification criteria are also provided in Table 4 of Appendix F of the report.

No asbestos was detected at the laboratory reporting limit in the filling. The asphalt and filling, described in Section 4.2 of the report, is provisionally classified as GSW (non-putrescible) at BH102 and BH104, based on the asphalt material being pre-classified under NSW EPA (2014), DP's observations and the recorded total concentrations of contaminants. The asphalt and filling, in BH102 and BH104, are therefore considered to be suitable for disposal to an appropriately licensed landfill facility as GSW non-putrescible. At BH103, however, the filling is provisionally classified as RSW (non-putrescible).

As the classification is preliminary only, the classification should be confirmed ex situ from stockpiled material sourced directly from the excavated material by visual and analytical means.

Asbestos Materials

The asbestos containing materials in the building were in the form of significant quantities of cement sheeting; there are also minor quantities of vinyl floor tiles. The asbestos containing

materials were in good and stable condition; in this condition and undisturbed they do not pose a health risk to the users of the site. The report recommends that the asbestos containing materials are labelled in accordance with requirements of the Safe Work Australia "How to Manage and Control Asbestos in the Workplace - Code of Practice, 2011".

The report also recommends the implementation of asbestos management procedures that minimises the potential for future damage of the asbestos materials. The asbestos materials should be inspected on a regular basis in accordance with the recommendations in the asbestos register in Appendix 1 of the report to ensure any deterioration or damage is detected early and that the material(s) are maintained in a good and stable condition.

Synthetic Mineral Fibre Materials (SMF)

Significant quantities of bonded synthetic mineral fibre containing materials are present throughout the building. The SMF materials were found to have been installed in accordance with current industry practice and were in good and stable condition: they do not pose a significant health risk to the occupants in the building.

Lead Based Paint Systems

The lead based paints identified on the site were in good condition and no remedial works are recommended.

Polychlorinated Biphenyls (PCBs)

Fluorescent light fittings in rooms DR0001/DR0002 within building B00D were identified as potentially containing PCBs. These fittings were not inspected due to the height restriction, but are of an age indicative of housing PCB capacitors. The PCB status should be confirmed prior to refurbishment or demolition. No visual evidence of PCB oil leakage was noted.

Council's Open Space and Recreational Planning Team Leader has provided the following comments in relation to Bellevue Park:

Bellevue Park is a location of contaminated soils, including asbestos. Council undertake regular inspections of the park for the presence of asbestos. As the demountable site will become the responsibility of the applicant, the applicant will need to undertake these inspections within the demountable area. In the event asbestos is found, the applicant will need an asbestos management plan.

It is considered that the subject sites are suitable for the proposed development subject to appropriate conditions of development consent mitigating potential adverse environmental impacts associated with the disposal and disturbance of contaminated materials.

10. SREP (Sydney Harbour Catchment) 2005 and accompanying DCP

The land is located within the Sydney Harbour Catchment, outside the Foreshores and Waterways Area of the Catchment. The proposal is considered to be satisfactory in terms of the applicable Clause 13 Planning Principles for land located within the Sydney Harbour Catchment and accordingly is considered to be acceptable in terms of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 and associated DCP.

11. SEPP (Infrastructure) 2007

11.1 Division 3: Educational Establishments

SEPP (Infrastructure) 2007 applies as the development application involves an education establishment.

11.2 Clause 28: Development Permitted with Consent

Clause 28(2) of the SEPP states:

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.*

Clause 28(3) of the SEPP states:

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.

In accordance with the above-mentioned provisions, the proposed development is permissible with consent.

11.3 Clause 32: Determination of Development Applications

The relevant provisions of Clause 32 state:

(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.

The NSW Department of Education has provided a statement that the proposal generally complies with the requirements of the Department of Education and Training's *Educational Facilities Standards and Guidelines* (EFSG), previously known as the *School Facilities Standards* including the provision of adequate indoor and outdoor spaces and facilities to accommodate the proposed increase to the school's population.

11.4 Traffic-generating development

The relevant provisions of Clause 104 states that any development that meets or exceeds the thresholds in Column 1 of the Table to Schedule 3 is required to be referred to Roads and Maritime Services (RMS) for comment. Schedule 3 states that an educational establishment that has a capacity of 50 or more students constitutes "traffic generating development". As the proposal exceeds this threshold (1000 students), the application was referred to the RMS for comment.

A referral response provided to Council on 7 August 2015 contained the following comments for consideration in the determination of the development application:

- a) *Council is to ensure car parking spaces provided are adequate for staff and students.*
- b) *The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1- 2004 and AS 2890.2 - 2002 for heavy vehicle usage.*
- c) *A Construction Traffic Management Plan (CTMP) detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council and RMS prior to the issue of a construction certificate. The following items should be included in the CTMP:*
 - o *Delays to school bus services should be minimised. (Delays may occur if school traffic is permitted to exit onto Victoria Road via the 'No Entry' point).*
 - o *Currently, 'No Entry - Buses Excepted' signage is installed to the exit onto Victoria Road. The CTMP should include the number and types of vehicles proposed to exit onto Victoria Road and the duration of this arrangement. The CTMP should include proposed sign changes required and should also include plans.*
 - o *Demonstrate how illegal turning manoeuvres (ie.-right turns and u-turns) into Bellevue Road or Victoria Road north will be discouraged/prevented (i.e. with temporary signs and barricades), to ensure safety for motorists and pedestrians.*

The site currently provides 10 informal parking spaces for 37 staff with an occupancy rate regularly reaching 100%. The current proposal is to reduce this number to 7 for the proposed 72 staff members via a formal car parking area in the south-west corner of the site.

Council's Traffic Engineer is of the opinion that and the proposed level of off-street car parking spaces is inadequate and that an additional 26 car parking spaces should be provided on-site. This request was formally declined on 10 September 2015.

The lack of adequate off-street car parking spaces is a recommended reason for the refusal of the subject application.

12. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

12.1 Infrastructure development and use of existing buildings of the Crown

Clause 5.12 of Woollahra LEP 2014 states:

- (1) This Plan does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development, by or on behalf of a public authority, that is permitted to be carried out with or without development consent, or that is exempt development, under State Environmental Planning Policy (Infrastructure) 2007.*
- (2) This Plan does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.*

As stated above under section 11.2, the proposal is permissible with development consent under the provisions of Clause 28(2) & (3) of SEPP (Infrastructure) 2007. Accordingly, the provisions of Woollahra LEP 2014 cannot restrict or prohibit the proposal.

Whilst the proposal involves a maximum height of 13.5m, thereby exceeding Council's 9.5m height development standard under Clause 4.3, is considered to be inconsistent with the heritage related provisions of Clause 5.10 (1) (a), (1) (b) & (4) and is considered to be inconsistent with several aims 1.2 (2) (f) (g) & (k) of the Plan relating to the conservation of environmental heritage, the protection of amenity and the natural environment and the minimization of traffic parking impacts, the provisions of Woollahra LEP 2014 cannot restrict or prohibit the proposal.

12.2 Part 2 Permitted or Prohibited Development

The proposal is permissible with consent in the subject SP2 Infrastructure zone under Woollahra LEP 2014.

12.3 Part 6.1: Acid Sulfate Soils

Clause 25D requires Council to consider any potential acid sulphate soil affectation where excavation is proposed within the site. It is considered that there is no issue of potential acid sulphate affectation in this case.

12.4 Part 6.2: Earthworks

The proposed works involve only minor excavation associated with footings. Council's development engineer has raised no objection to the proposed works on excavation related grounds subject to a number of standard conditions addressing excavation related impacts. The proposed works are considered to be satisfactory with regard to Part 6.2 of the Woollahra LEP 2014.

13. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

This plan applies to development requiring consent under Woollahra LEP 2014. The following analysis has had regard to the provisions of Clause 32 (3) of SEPP (Infrastructure) 2007 which state:

If there is an inconsistency between (the Department of Education and Training's Educational Facilities Standards and Guidelines), previously known as the School Facilities Standards) and a provision of a development control plan, the standard prevails to the extent of the inconsistency.

13.1 Chapter B1.7 Bellevue Hill South Precinct

The relevant desired future character objectives for the Bellevue Hill South Precinct are:

- O1 To respect and enhance the streetscape character and key elements of the precinct. The stated streetscape character and key elements of the precinct are:*
- a) the rich mixture of architectural styles and forms;*
 - b) the stepping of development down the hillside;*
 - c) interconnected streets following the contours of the land;*
 - d) deep soil landscaping within the front and rear setbacks;*
 - e) mature street trees and grassed verges;*
 - f) the highly visible tree canopy providing a dense green backdrop to views from Sydney Harbour and surrounding lands; and*
 - g) the preservation of views from public places, including view corridors between buildings.*
- O3 To establish a transition of development scale from the detached dwelling houses at the northern end of Bellevue Hill to the residential flat buildings that address the major streets - Birriga Road, Old South Head Road and Victoria Road – situated along the precinct ridgeline.*
- O5 To design and site buildings to respond to the topography and minimise cut and fill.*
- O6 To preserve significant views and vistas to surrounding areas from the streets and parks.*
- O7 To reinforce the landscape setting and maintain the existing tree canopy.*

Due to the proposed excessive pruning (approximately 50%) of a significant Port Jackson Fig tree located in Bellevue Park and the loss of all 3 Hills Weeping Fig trees from the subject site to facilitate the main new building, the proposal is considered to be inconsistent with objective O7.

13.2 Chapter E1: Parking and Access

Non-Residential Parking

Use	GFA	Rate	Spaces Required	Spaces Provided
Educational est. existing	1972m ²	1 space/100m ² including 1 wheelchair accessible space per 50 spaces	20	10
Educational est. proposed	4899m ²	1 space/100m ² including 1 wheelchair accessible space per 50 spaces	50	7
Net Change	2927m ²	1 space/100m ² including 1 wheelchair accessible space per 50 spaces	30	Shortfall of 33 spaces

The site currently provides 10 informal parking spaces. The proposal provides for 7 formal parking spaces via a car parking area in the south-west corner of the site.

The proposal involves a 2927m² increase in gross floor area, resulting in a requirement for a maximum number of 30 additional off-street car parking spaces. This results in a required total of 40 after taking into consideration the credit for the existing shortfall of 10 spaces. Whilst a maximum of 40 off street car parking spaces are required, only 7 spaces are proposed; a shortfall of 33 spaces.

The following objective is relevant to this significant off-street car parking shortfall issue:

- O2 *To ensure that development generating vehicular traffic makes adequate provision off street for the car parking and servicing needs of its occupants and users, including residents, employees, visitors, employees and deliveries.*

Section E1.4.2 states the following in relation to the proposed provision of fewer spaces than the maximum number required:

The rates in Table 1 are maximum parking rates. The maximum number of parking spaces may not be achieved on a site depending on the site and its context.

In particular, the desired future character, streetscape and garages controls in the residential chapters of this DCP (Part B) take precedence over the numeric parking rates in this chapter.

For example, a dwelling on a small or narrow lot may not achieve the maximum number of on-site parking spaces if the arrangement of the spaces cannot meet the character, streetscape and location of garage requirements for the precinct. This is particularly relevant in the R2 Low Density Residential zoned areas.

However, in other instances where the maximum number of parking spaces is not achieved, the parking provided should not be substantially below the maximum rates. Where less than the maximum parking rate is proposed, justification must cover matters such as, but not limited to the matters listed in Section 1.2.2 (Matters the consent authority will consider).

Council will generally only support such proposals where the applicant can demonstrate that the development is unlikely to create significant additional demand for on-street parking in surrounding streets.

The matters for consideration listed under Section 1.2.2 are as follows:

- o *the scale and nature of the development;*
- o *existing traffic generation associated with the site;*
- o *traffic generation associated with the proposed development;*
- o *traffic volumes on the road network in the area of the development and the capacity of the road network;*
- o *impacts on traffic and pedestrian safety;*
- o *impacts on residential amenity;*
- o *for commercial development—the type of activities on the site, including allocation floor area for different uses associated with the commercial development e.g., area dedicated to back-of-house uses such as storage areas;*
- o *for residential development—a proposal to accommodate a car share scheme parking space on the site or directly adjoining the site;*
- o *methodologies to ameliorate traffic generation impacts (e.g. traffic calming);*
- o *the availability of public parking (on-street and off-street) near the development;*
- o *the availability of public transport to serve the development;*
- o *the probable mode of transport of users to and from the development;*
- o *the suitability of street lighting in the area;*
- o *whether the development warrants special consideration because it is proposed for, or relates to, a heritage item;*

- o *the characteristics of the streetscape and the site, particularly the subdivision pattern, topography, street design and width, street tree planting, on-street parking or loading spaces and any existing access arrangements; and*
- o *construction method.*

The applicant has provided the following case for the proposed level of off-street car parking:

There is insufficient land available to accommodate any additional on-site parking.

A green plan will be adopted by the school. This plan will promote and encourage the use of alternative modes of transportation for both students and staff members such as walking, cycling and the use of public transportation.

The potential of providing a basement level car park was formally addressed at the JRPP briefing session. Underground car parking will impact the delivery of this project as it will significantly increase the development's construction costs. It will increase the complexity of the design and the duration of the construction process, prolonging impacts such as noise and general disruption to the existing school. The additional excavation required may increase slope stability issues during construction.

Additionally, if underground car parking is provided, this may require the building's height to be increased, increasing the bulk and scale of the building, about which Council has already expressed its concerns.

The main priority of DEC is to ensure there is sufficient capacity in the local public education system to support the long term population growth of Sydney's eastern suburbs, where land availability is scarce. This is supported by DEC's Educational Facilities Standards and Guidelines (EFSG), which is the principal development guide for public schools. These standards outline that:

“In order to ensure that the available site area for teaching, learning and play is maximised, to enable community use and to encourage the use of sustainable means of transport to and from the school, on school site parking should be kept to a minimum”.

As outlined in Clause 32 of the State Environmental Planning Policy (Infrastructure) 2007, if there are any inconsistencies between these standards and Council's DCP controls the Department guidelines prevail. Therefore it is required to minimise on-site parking within the school grounds in order to maximise the minimal amount of land available for educational purposes.

Council's Traffic Engineer has considered the traffic report submitted with the development application and has provided the following comments in relation to the proposed shortfall in off-street car parking provision:

For educational establishment, Woollahra DCP 2015 Chapter E1 Parking and Access Clause E1.5.2 requires a minimum of 1 space per 100m² and one disability parking space per 50 car spaces. Based on the proposed additional gross floor area of 2927m², an additional 30 parking spaces are required. The current site provides 10 informal parking spaces. A maximum of 40 off street car parking spaces are required.

Should the green travel plan be implemented and successfully meet a target of a 15% reduction in car usage, the parking requirement is reduced to 34 parking spaces. Woollahra

DCP 2015 Chapter F2 Educational Establishments Clause F2.6 states “to minimise impacts on the adjoining community, all parking, servicing and pick up/drop of arrangements should be provided on-site”.

The current proposal is to reduce the 10 informal parking spaces to 6-7 spaces, despite an increase in total staff numbers to 72, resulting in a shortfall of 26-27 parking spaces. Council’s Traffic Section does not support the proposed increase in staff numbers without a substantial increase in off-street parking provision to accommodate the increase in vehicles expected to attend the site. Council raises concerns with any increased reliance on the on-street parking supply as these spaces are already highly utilised and such action will likely increase the prevalence of illegal parking, reducing general traffic safety and flows in the vicinity of the school.

All new developments should be able to accommodate all parking requirements on-site or alternatively, identify how the development will function with a lesser number than the maximum required number of spaces on-site without impacting adversely upon the local road network.

Council’s Traffic Section queries the relevance and the effectiveness of the proposed “8 hour” timed parking restrictions on weekdays in terms of increasing on-street parking availability. Varied parking demands exist among local residents, commuters/business (including existing school staff) and visitors. These parking demands are often short-term and as such “8 hour” timed parking restrictions will not result in any significant increased turnover of on-street parking. Competition for parking is already high at this location and Council seeks to manage the limited on-street parking resource in an equitable way. Council’s Traffic Section does not support timed parking restrictions to deter residents from parking in the vicinity in order to create an additional on-street parking supply for the school.

With regard to the suggested conversion of the existing on-street parking lane into an additional travel lane along Birriga Road, Council’s Traffic Section does not support the removal of any on-street parking as these spaces are highly utilised.

Conclusion

Based on the information provided, the proposal results in a shortfall in off-street car parking provision of 26-27 spaces. Council’s Traffic Section raises concerns with any increased reliance on the on-street parking supply as these spaces are already highly utilised and such action will likely increase the prevalence of illegal parking, reducing general traffic safety and flows in the vicinity of the school.

The proposal is therefore considered to be unsatisfactory with regard to off-street car parking provision.

13.3 Chapter E2: Stormwater and Flood Risk Management

The provisions of this chapter require the adequate provision of sustainable stormwater management, the controlled release of stormwater, to prevent flooding downstream in the prevention of stormwater pollution to Sydney Harbour and waterways and to protect land and property from flooding.

Council's Development Engineer has provided the following comments/criticisms of the proposed site drainage details:

The stormwater disposal concept plans prepared by Birzulis Assoc Consulting Engineers Dwg No. HSW-00 to HSW-03 Issue F, dated August 2015 are considered to be unsatisfactory for the following reasons:

- *The stormwater management plan with an OSD system needs to be provided for the entire site and not only for the area of new works.*
- *All surface and invert levels of all pits and pipes including the final point of discharge need to be documented.*
- *The proposed extension on south-east of the proposed site is said to be draining to an existing system. The existing system and a legal final point of discharge need to be documented.*
- *The OSD system design calculations including the bypass area need to be documented.*
- *An emergency overflow weir needs to be provided for the OSD system and a path of the overflow discharge documented.*
- *The size of the Orifice plate diameter needs to be documented (it appears to be too wide). The OSD storage design should be revised to achieve hydraulic workability and to achieve the purpose of an OSD system provision.*

Accordingly, the proposal is considered to be unsatisfactory in terms of site drainage details.

13.4 Chapter E3: Tree Management

Objectives

The objectives of this chapter are:

- O1 *To identify trees which are prescribed for the purpose of clause 5.9(2) of Woollahra LEP.*
- O2 *To define the different circumstances under which a development consent or permit application is required for works to a prescribed tree.*
- O3 *To promote, maintain and conserve the leafy character of the Woollahra Municipality.*
- O4 *To conserve significant trees of historic, cultural, commemorative, scientific, visual or aesthetic importance.*
- O5 *To find a balance between maintaining Woollahra's canopy cover and providing for development on private land.*

Prescribed trees

The species or kinds of trees that are prescribed for the purpose of clause 5.9(2) of Woollahra LEP 2014 are:

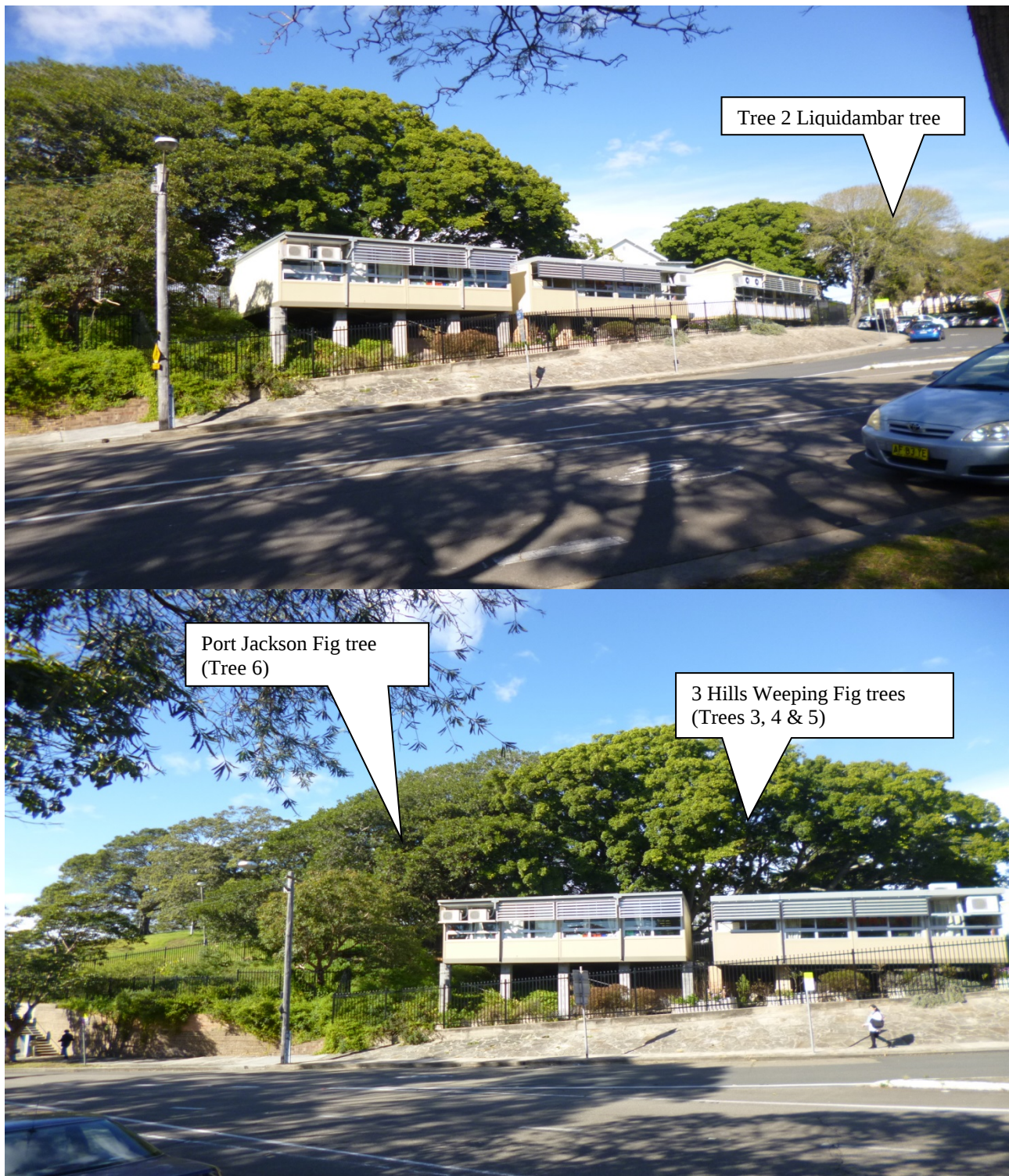
1. *Any tree or palm, whether of indigenous, endemic, exotic or introduced species with a diameter spread of branches greater than 3m or with a height greater than 5m, irrespective of the spread of branches, and that is not identified in this chapter as exempt.*
2. *Any tree, whether of indigenous, endemic, exotic or introduced species with roots greater than 50mm diameter, but only if root pruning is proposed.*
3. *Any tree or palm identified in Council's Significant Tree Register.*
4. *Any tree or palm identified in Schedule 5 Environmental Heritage of Woollahra LEP, or located on land identified in Schedule 5 including:*
 - a) *a tree listed as a heritage item;*
 - b) *a tree located on land identified as containing a heritage item; or*

- c) *a tree on land within a heritage conservation area.*
- 5. *Any bushland as defined in State Environmental Planning Policy 19 – Bushland in Urban Areas.*

Matters to be considered for works to a prescribed tree

- a) *The species, health, structural condition, age, growing environment and landscape significance.*
- b) *Where view pruning is proposed, the view pruning guidelines in the Woollahra Tree Management Policy 2011 will apply.*
- c) *Where pruning for solar access is proposed, this will be considered making allowances for the tree's health, growth habit, structural stability and growing environment.*
- d) *Where tree removal is proposed, the following matters will also be considered:*
 - i) *the surrounding canopy cover*
 - ii) *amenity issues*
 - iii) *the opportunity for replacement planting.*
- e) *The impact of the proposed works, as assessed against the guidelines in Australian Standard 4970 Protection of Trees on Development Sites. Note: Where removal of the tree is approved, suitable replacement planting will form part of the conditions of development consent.*
- f) *The contribution the tree provides to the canopy cover, amenity, environment and landscape of the immediate and surrounding area.*
- g) *The visual prominence of the tree and its proximity to ridgelines, prominent places, the harbour and public open space.*
- h) *For a tree on the Significant Tree Register—the impact of the proposed works on the amenity and landscape setting of the surrounding area.*
- i) *For a heritage listed tree or a tree located in the grounds of a heritage listed property—the impact of the proposed works on the heritage significance of the item and its curtilage, and the amenity and landscape setting of the surrounding area. A heritage impact assessment may be required.*
- j) *For a tree in heritage conservation areas—the impact of the proposed works on the heritage significance of the conservation area and the amenity and landscape setting of the surrounding area. A heritage impact assessment may be required.*
- k) *Whether the proposal is to be sympathetic to the cultural and historical garden setting. The original garden layout and design should be retained where possible, particularly where the tree is located in an historic grand estate.*
- l) *If the tree is proposed for removal, what replacement tree or trees will be provided? Well established gardens and trees should generally be retained. Replacement trees should be positioned and be of a species that reflect the original garden as much as possible.*

Images of documented affected trees



The applicant has provided the following case for the proposed removal of all 3 substantial Hills Weeping Fig trees located within the subject site and the severe pruning (approximately 50%) of a substantial Port Jackson Fig tree located in Bellevue Park:

In order to accommodate the new building, trees will require pruning. Several trees including the 3 Hills Weeping Fig trees will also require removal. In order to retain these trees, significant alterations to the design of the building would be required. This would result in a substantial reduction in the floor space of the new school building, equating to a reduction in

the school's educational capacity. It will also compromise the design and functionality of the building, as a significant portion will need to be deleted from the building. Trees will require removal and pruning. The benefits of this new school building however outweigh any impacts associated with tree removal.

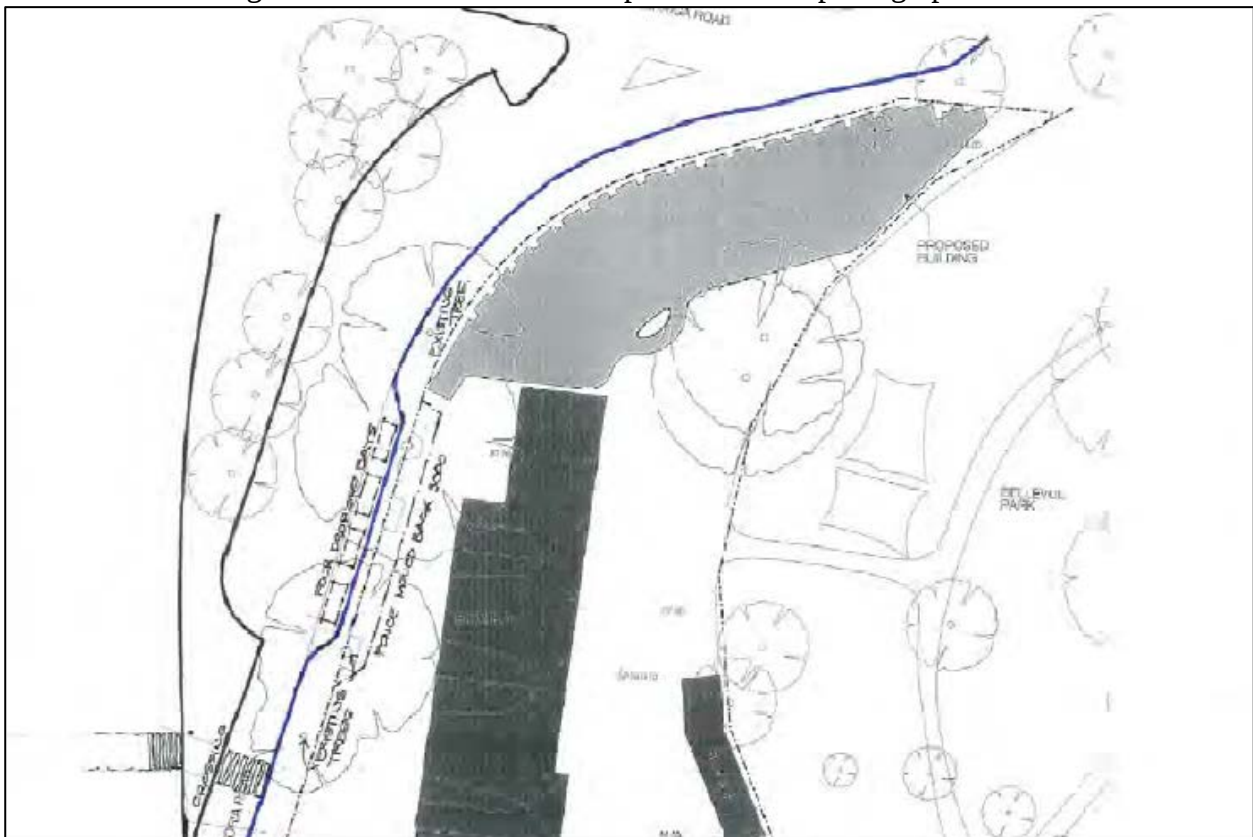
The new school building will provide not only an educational facility but a community facility for not only Bellevue Hill but the entire subregion. This area of Sydney is an established suburb which is still and will continue to grow. As this is an established area of Sydney, limited land is available for essential community infrastructure.

This development is focused on planning for the future, to ensure there is sufficient infrastructure in place to accommodate the increasing demand for public education in the long term.

Where tree removal is proposed, they will be replaced with mature trees within the site or within the adjacent park, subject to agreement with Council.

Appropriate landscaping is proposed within and around the school's boundaries, which will include the planting of mature vegetation within the school and possibly within the park. This will ensure the school, park and streetscape will continue to provide similar levels of amenity, whilst ensuring the community is serviced with essential public infrastructure which is crucial for the long term educational needs of not only the LGA but the wider sub-regional area.

The following arboricultural assessment by Council's Team Leader-Tree Department does not include an assessment of the tree impact of the proposed provision of additional spaces at the head of the drop-off and pick-up zone via an indentation into the kerb adjacent to the western frontage of the school, as this is only indicated in the traffic report and is not documented on the architectural plans, landscape plans or in the arboricultural impact assessments/root investigation report. The subject kerb indentation locality and potentially affected street trees (Hills Weeping Figs) are indicated in the diagram lifted from the traffic report and in the photographs below:





Council's Team Leader-Tree Department has provided the following comments in relation to the proposal

The supplied documentation shows there are five (5) trees that will be directly impacted by the proposed works and that these trees will be required to be removed. Two (2) of these trees are Council-managed with one (1) located within Bellevue Park and the other on the road

reserve of Birriga Road. The remaining three (3) trees are located within the school grounds. These trees are discussed in detail below.

Two arboricultural reports and one environmental report have been provided, which comment on the trees. There are inconsistencies between these reports and conclusions have been made based on inaccurate information and changed positions.

Bluegum Report

The Bluegum Report was the first provided to Council for assessment. The plans which the Bluegum report relied upon (refer 4.2 Plans and Diagrams) for its assessment are not the plans which have been submitted within the Architectural Drawing set prepared by Group GSA, dated 18.06.15. The plan descriptions and plan reference numbers within the Bluegum Report do not correlate with those supplied as part of the assessment.

There is also evidence throughout the Bluegum report which suggests that this arboricultural consultant was provided insufficient information for a comprehensive assessment on the impact to the trees. It is for this reason that the assessment of the impact of the works on the trees supplied within the Bluegum report have not been taken into consideration as part of this referral response.

Naturally Trees

The second Arboricultural report supplied to Council was the Root Investigation prepared by Naturally Trees (dated 1 September 2015). This report provided comprehensive and useful information into the presence and extent of root spread of Trees 3-6. Within this report comments were also made on the pruning of Tree 6 in that:

“Consideration should be given to the significant canopy pruning that will be required to accommodate the building. Based on observations on site, the current structure of the canopy will cope with pruning quite well and the overall amenity of the tree will not be diminished.”

I disagree with the above assessment on the impact of the pruning on Tree 6. My position has been consistent, in that approximately 50% of the crown of the tree will be required to be pruned which will have a significant impact on the tree’s short-term health and structural condition. Removal of Tree 6 will be required.

I discussed the above with Naturally Trees (Andrew Scales) on site. Mr Scales acknowledged that he was given incorrect advice from staff and he agreed that the extent of pruning would be detrimental to the viability of the tree. However, the changed position of Naturally Trees has not been forthcoming in an amended report or annexure.

ACS Environmental

The Impact Assessment Prepared by ACS Environmental (date September 2015) describes the pruning of Tree 6 as limited and minor. This is a gross underestimation and in contradiction to the agreed assessment by Naturally Trees and Council’s arborist.

Tree 2 Liquidamber styraciflua (Liquidambar)

This Liquidambar is a Council-managed street tree positioned on the Road reserve of Birriga Road. This tree provides a moderate contribution to the amenity of the surrounding area.

The works impacting this tree include demolition of the concrete batter and reconstruction of the footpath.

The supplied Landscape Plan shows that five (5) Lophostemon confertus (Brush Box) are proposed to be installed within the road reserve of the northern frontage of the site. These trees will, in time, compensate for the loss of the Liquidambar and there is no issue with the removal of this tree as part of the works.

Trees 3, 4 & 5 Ficus microcarpa var. 'Hillii' (Hills Weeping Fig)

These Hills Weeping Fig trees are positioned within the school grounds in the eastern area of the site and adjacent to the southern boundary. These trees are in excess of 60 years old as aerial imagery in 1943 show they were present on the site at this time. The footprint of the proposed building is positioned within the same location as Tree 5. This tree will be required to be removed as part of the proposed works and there is no issue with this.

Trees 3 and 4 are indicated as being retained within the architectural plan set. However, cross sections show the footprint of the 1m deep excavations for the amphitheatre are proposed on both sides of these trees (Refer cross sections E & F Plan reference DA3101B). Based on this, Trees 3 & 4 will be required to be removed.

At the 2nd September onsite meeting with the applicant's current arborist (Mr Scales), it was agreed that the element of the proposal with the most impact to Trees 3 & 4 is the excavation for the amphitheatre. The setback of the building from these trees was tolerable with regards to their long-term viability.

The applicant's architect indicated at the 2nd September JRPP meeting that design modifications of the amphitheatre could be undertaken to minimise excavations and therefore facilitate the retention of Trees 3 & 4.

Following instruction from the JRPP, I met on site with Mr Scales. In part, the purpose of the meeting was to reach agreement on a strategy to facilitate the retention of Trees 3 & 4.

It was agreed that Trees 3 & 4 could be retained if the amphitheatre was constructed in a tree/soil sensitive way. Some acceptable pruning of the crowns' of the trees would be required.

The above was discussed at the onsite meeting (7th September) with relevant Council Officers and the applicant's design team. The City Plan Services Response to council's request for additional information (dated 10 September - Ref: 14-170) outlines that:

"In order to retain these trees (Trees 3, 4 & 6) significant alterations to the design of the building would be required. This would result in a substantial reduction in the floorspace of the new school building, equating to a reduction in the school's educational capacity. It will also compromise the design and functionality of the building, as a significant portion will need to be deleted from the building. "

From this, it is understood that a modification in the design is not being considered to facilitate the retention of Trees 3 & 4.

Tree 6 Ficus rubiginosa (Port Jackson Fig)

This Port Jackson Fig tree is Council-managed tree as it is positioned within Bellevue Park in the northern boundary. This tree is estimated to be in excess of 80 years old as aerial imagery in 1943 show it to be present and of dimensions suggesting it was mature at that time. This tree has high landscape significance as it provides a high contribution to the canopy cover and amenity to the surrounding area. The tree is listed within Council's Register of Significant Trees. The two arboricultural consultants engaged by the applicant have also assessed this tree as having High landscape significance.

Extract from Statement of Significance (Register of Significant Trees Volume 4 -p.32):

*The Fig plantings, a mixture of Moreton Bay Figs and Port Jackson Figs, form a major grove of trees in the park. These trees surround the crown of the Hill and with their sparse canopies frame the magnificent views. Furthermore, large Port Jackson Figs and a single Hill's Weeping Fig (*F. hillii*) line the southern boundary and two large individual specimens of this species dominate the lower north-western boundary to Bellevue Hill Public School. One of these specimens is a particularly fine, dense and broadly spreading tree of note.*

This Port Jackson Fig has a calculated Tree Protection Zone (TPZ) of 15m. The TPZ is defined by the Australian Standard The Protection of Trees on Development Sites (AS 4970 - 2009) as:

“a specified area above and below ground and at a given distance from the trunk set aside for the protection of a tree's roots and crown to provide for the viability and stability of a tree to be retained where it is potentially subject to damage by development”.

This tree also has a calculated Structural Root Zone (SRZ) of 4m. The SRZ is the ‘area around the base of the tree required for the tree's stability in the ground. The woody root growth and soil cohesion in this area are necessary to hold the tree up right’ as defined by AS 4970 – 2009.

The supplied plans show that works adjacent to this tree include excavations beyond a depth of 1m for the amphitheatre and the construction of the proposed school building. These works are shown approximately 5.3m from the centre of the tree's base and are within the TPZ. Upon request from Council an exploratory root map was undertaken along the line of the proposed excavation to determine the presence and extent of root spread. The root mapping was undertaken by Naturally Trees.

The results of the root mapping found that one root with an approximate diameter of 105mm was exposed. The Naturally Trees Report concludes that the existing retaining wall is preventing root growth from entering the subject property. Based on this evidence the below ground impact to the tree will be minimal and acceptable.

However, as outlined above the TPZ also includes the above ground parts of the tree and the extent of crown pruning needs to be taken into consideration. The supplied plans show the proposed school building as being four storeys, approximately 13.5m in height and

approximately 5.3m from the tree. There was conflicting opinion between the two supplied arborists reports on the extent of pruning and the subsequent impact to the tree.

Following instruction from the JRPP, on the 2nd September I met on site with Mr Scales (Naturally Trees). In part, the purpose of the meeting was to reach agreement on the impact of the pruning on the Port Jackson Fig. At this meeting it was agreed that the pruning to accommodate the building and works/structures associated with construction would be approximately 50% of the crown. It was also agreed that this extent of pruning would have a detrimental effect on the short-term viability of this tree.

This tree is mature and will not be able to respond and adapt to a significant loss of foliage. The tree is unlikely have the energy reserves to resist wood decay pathogens at the sites of the large pruning wounds resulting in an increase in the risk of failure of branches. The health of the tree will also decline in the short-term as energy reserves will be allocated to the pruning wound sites. Based on this, the tree should be removed.

From this, I suggested to Mr Scales that we come to an agreed extent of pruning which would enable a building to be constructed close to the tree. We established that the position of an acceptable offset of a building would be no closer than the same alignment as the east face on the existing easternmost de-mountable [a reduction to the length of the building by approximately 20m from its eastern end thereby reducing the length of the street front elevation from 90 m to 70 m]. Some pruning of Tree 6 would be required however the tree could be retained.

The agreed setback was discussed at the onsite meeting (7th September) with relevant Council Officers and the applicant's design team. The City Plan Services Response to Council's request for additional information (dated 10 September - Ref: 14-170) outlines that:

"In order to retain these trees (Trees 3, 4 & 6) significant alterations to the design of the building would be required. This would result in a substantial reduction in the floor space of the new school building, equating to a reduction in the school's educational capacity. It will also compromise the design and functionality of the building, as a significant portion will need to be deleted from the building."

From this it is understood that a modification in the design is not being considered.

Conclusion

The proposal is not satisfactory in its current form. Refusal of this application is recommended as no conciliatory attempt has been made by the applicant to retain Trees 3-6. The loss of the following trees will have a significant and long-term impact on the canopy cover and amenity to the surrounding area.

- The removal of one Council-managed park tree (Port Jackson Fig - Tree 6) located within Bellevue Park. This tree is at least 80 years old, has high landscape significance and is listed within Council's Register of Significant Trees. The works as proposed will require the removal of approximately 50% of the crown of this tree resulting in a reduction in its viability. The health of the tree will be significantly impacted resulting in a reduction in its life expectancy. The structural stability of the tree will also be compromised.*

- *The removal of three large trees (Hill's Fig Trees 3, 4 & 5) within the south-eastern area of the school. These trees are in excess of 60 years old and provide a high contribution to the canopy cover and amenity to the surrounding area.*

Council's Senior Sustainability Officer has provided the following comments in relation to the proposal:

Bellevue Park contains a number of mature Fig trees, and is a foraging site for the Grey-Headed Flying Fox, which is listed as vulnerable under the NSW Threatened Species Conservation Act 1995 and the Environment Protection and Biodiversity Conservation Act 1999 (Commonwealth).

Bellevue Park is also an important component of the urban forest and wildlife corridor connecting habitat areas in Woollahra and Waverley. The Biodiversity Study of the Waverley Local Government Area (May 2011) shows the linkage that Bellevue Hill Park provides between Thomas Hogan Reserve and Cooper Park (p.37). The DRAFT Woollahra Biodiversity Conservation Strategy 2015-2025 (www.woollahra.nsw.gov.au/bcs) recognises Bellevue Hill Park as a Locally Significant Habitat Area (p8-13), and recognises the corridor identified in the Biodiversity Study of the Waverley Local Government Area.

The significance of Bellevue Park as a key component of an urban wildlife corridor between habitat areas in Woollahra and Waverly, and its role in providing a food source for the Grey-Headed Flying Fox (listed as a vulnerable species by the NSW and Commonwealth Governments) has not been identified. The environmental impacts of the development have not been assessed sufficiently.

To inform consent, Council requested that the following assessment be undertaken:

On review of the Statement of Environmental Effects, Council requested at a minimum, an Assessment of Significance ('7-Part Test') on the following actions with relation to the Grey Headed Flying Fox, and other listed species likely to forage or reside in Bellevue Park be undertaken by a suitably qualified ecologist:

- *Significant pruning of Tree Number 4 – Hills Weeping Fig;*
- *Removal of Tree Number 5 – Hills Weeping Fig;*
- *Significant pruning of Tree Number 6 – Port Jackson Fig (Significant Tree Register); and*
- *Removal of Tree Number 6 – in the case that major root loss and significant pruning leads to tree removal.*

It is noted that the Impact Assessment was undertaken on the first three of four points listed above, and the impact assessment of the scenario of removal of tree 6 was omitted from the assessment. Consistent advice from Council's arborist is that the removal of this tree would be required due to the loss of a significant portion of the tree's crown if the proposal is approved as per the architectural drawings. Despite this, Council believes that the Impact Assessment has satisfactorily looked into the likely impact of removal of fig trees within the Bellevue Hill Park area and shown that:

- *The proposed development will not place a local population of the Grey-headed Flying Fox at risk of extinction;*

- *The proposed development will not place an endangered population at risk of extinction;*
- *The proposed development will not have an adverse effect on the extent of an ecological community, or place a local occurrence of an endangered ecological community at risk of extinction;*
- *The extent to which habitat of the Grey-headed Flying Fox is likely to be removed or modified is not significant;*
- *The fragmentation and/or isolation of the habitat of the Grey-headed Flying Fox is not significant;*
- *The habitat that is to be removed will not have a significant impact on the long term survival of the Grey-headed Flying Fox;*
- *The proposed development will not have a direct or indirect adverse effect on critical habitat;*
- *The proposed development does not constitute and is not part of a key threatening process, and is not likely to result in the operation of, or increase the impact of a key threatening process.*

The assessment has not shown that the proposed development is consistent with the objectives or actions of a recovery plan or abatement plan.

- *Loss of foraging habitat is consistently identified as the primary threat to Grey-headed Flying-foxes (Ratcliffe 1931, Tidemann et al. 1999, Dickman and Fleming 2002, Eby and Lunney 2002). Reductions in nectar flow and fruit productivity occur as a result of forest clearance and degradation, reductions in floristic diversity, simplification of age structure from forestry practices, eucalypt dieback, drought, fire, climate change and the vulnerability of flowering and fruiting schedules to fluctuations in such factors as temperature and rainfall (Norton 1996, House 1997, Wilson and Bennett 1999, Law et al. 2000, Hughes 2003). Clearing of native vegetation for agriculture, forestry operations, plantation plantings, and development continue to reduce food production from eucalypts and other native species in the diet of Greyheaded Flying-foxes (Accad et al. 2001, Wilson et al. 2002, Queensland Department of Natural Resources and Mines 2005). Plant communities in coastal areas exposed to rapid increases in human population are severely affected (Catterall et al. 1997, Williams et al. 2001, Keith and Scott 2005). Draft National Recovery Plan for the Grey-headed Flying Fox, 2009, Office of Environment and Heritage.*

The criteria for an area being explicitly identified as ‘habitat critical for survival’ are listed on p.14-15 of the Draft National Recovery Plan. While no information was provided on the activity of the Bellevue Park area, Council is aware that in 2015, the Bellevue Park area was an active feeding site within the September – May period, and as such can be identified as habitat critical for survival.

The proposal is not consistent with the following objectives:

- *Objective 1. To identify and protect foraging habitat critical to the survival of Grey-headed Flying-foxes throughout their range*
- *Objective 2. To protect and increase the extent of key winter and spring foraging habitat of Grey-headed Flying-foxes*

The removal of Trees 3, 4, and 5 (Hills Figs), and pruning of Tree 6 (Port Jackson Fig) will contribute to loss of foraging habitat critical to the survival of Grey-headed Flying Fox, and

will reduce the extent of Spring foraging habitat, and is therefore inconsistent with the objectives of the Recovery Plan for the Grey-Headed Flying Fox.

While not explicitly assessed, the removal of Tree 6 (Consistent advice from Council's arborist is that the removal of this tree would be required due to the loss of a significant portion of the tree's crown if the proposal is approved as per the architectural drawings) will further contribute to loss of foraging habitat critical to the survival of Grey-headed Flying Fox, and will reduce the extent of Spring foraging habitat, and is therefore inconsistent with the objectives of the Recovery Plan for the Grey-Headed Flying Fox.

Accordingly, the proposal is considered to be unsatisfactory in terms of the loss of 4 significant fig trees from the locality.

13.5 Chapter E4: Contaminated Land

The provisions of this chapter require the adequate management of potentially contaminated land in order to adequately ensure public health and safety, essentially replicating requirements of SEPP 55-Remediation of Land.

As discussed above under section 9 *SEPP 55-Remediation of Land*, it is considered that the subject sites are suitable for the proposed development subject to appropriate conditions of development consent mitigating potential adverse environmental impacts associated with the disposal and disturbance of contaminated materials in Bellevue Park.

13.6 Chapter E5: Waste Management

The provisions of this chapter require the minimisation of waste and the promotion of recycling.

The statement of environmental effects submitted with the development application states the following with regard to the provisions of this chapter:

Minimal changes are proposed to the existing waste disposal arrangements in place for the existing school. Materials will be recycled and reused where possible, throughout all stages of the development, ultimately reducing landfill waste.

The provisions of this chapter could potentially be addressed via recommended conditions of consent. Council's Environmental Health Officer has raised no objection to the proposal on waste management grounds.

13.7 Chapter E6: Sustainability

The provisions of this chapter require non-residential buildings to be designed and constructed so as to minimise energy and water consumption.

The statement of environmental effects submitted with the development application states the following with regard to the provisions of this chapter:

The development will be designed and constructed taking into account all of the latest and best practices for environmentally sustainable design outcomes. This includes the selection of high quality and long lasting materials and the use of energy efficient fixtures. The development will incorporate the latest ecological sustainable design principles and is capable of achieving a 4 star NABERS rating.

The proposed main building faces north and would receive abundant winter solar access and cross ventilation, thereby minimising energy consumption.

Council's Development Engineer considers the proposed stormwater drainage to be satisfactory in terms of rainwater retention and use on-site.

The NSW Department of Education has provided a statement that the proposal generally complies with the requirements of the Department of Education and Training's *Educational Facilities Standards and Guidelines* (EFSG), previously known as the *School Facilities*.

As outlined under the provisions of Clause 32(3) of the SEPP (Infrastructure) 2007, if there are any inconsistencies between these standards and Council's DCP controls the Department guidelines prevail.

Accordingly, the proposal is considered to be satisfactory with regard to the provisions of this chapter.

13.8 Chapter F2: Educational Establishments

The objectives of this chapter are:

- O1 To encourage well designed educational establishments that balance the requirements of students and staff, with the amenity of the adjacent properties.*
- O2 To protect views and vistas.*
- O3 To protect and conserve heritage conservation areas, and heritage items located on or adjacent to an educational establishment.*
- O4 To encourage all schools to provide sufficient open spaces on site, and protect existing open spaces.*
- O5 To encourage a safe, efficient and co-ordinated traffic network which considers all users.*
- O6 To encourage community uses of educational establishments that do not unreasonably impact on surrounding residents.*

13.8.1 Part F2.2: Building and Urban Design

The provisions of this part require well-designed buildings that positively contribute to the streetscape and character of the locality and to encourage sustainable design.

The statement of environmental effects submitted with the development application states the following with regard to the provisions of this part of the chapter:

The design represents high quality contemporary architecture, but remains sympathetic to the existing buildings within the Bellevue Hill locality. This is as a result of the careful selection of high quality materials and appropriate colour tones which are respectful to the existing locality and streetscape.

A proposed new plaza area at the site's main frontage will contribute to the existing character of the streetscape, by creating a clear and identifiable meeting area for the school's community.

Numerous design options for the site's development to cater for the increased student numbers were assessed and this option was considered the optimum in terms of appropriate height, scale and bulk, minimal impacts to the surrounding locality and maximising open space.

The development will incorporate the latest ecological sustainable design principles and is capable of achieving a 4 star NABERS rating. This is facilitated by the layout of the proposed new building and the selection of energy efficient materials and fixtures.

Council's Urban Design Officer has provided the following comments in relation to the proposal in terms of building and urban design:

The proposed building appears to be carefully designed with quality materials and detailing appropriate to the building type. The location of the building is not appropriate however and is out of character with the context.

Council's Urban Design Officer raises no objection to the visual impact of the proposed main building per se. It is the impact of it upon the landscape character of the locality and the overshadowing of the adjacent outdoor passive recreation area that is objected to. However, these are not relevant matters for consideration with regard to the provisions of this part of the chapter (refer to section 13.4 *Chapter E3: Tree Management* for the consideration of impacts upon significant trees and section 13.8.4 *Part 2.5 Open Spaces* for consideration of the overshadowing issue).

The proposed 4 storey main building constructed within the northern section of the site fronting Birriga Rd involves a curved elevation to the streetscape that is approximately 90m long. The potential visual impact of this substantial elevation upon the streetscape is mitigated to a considerable extent by a series of 19 x 400mm deep vertical recesses.

It is considered that amendments to the main building necessary to protect the significant Port Jackson Fig tree located in Bellevue Park (a reduction to the length of the building by approximately 20m from its eastern end thereby reducing the length of the street front elevation from 90 m to 70 m) and to reduce the loss of visibility of the historic main building from the public domain would adequately mitigate any potential adverse visual impacts upon the streetscape and Bellevue Park. However, these requests were formally declined on 10 September 2015.

13.8.2 Part 2.3 Siting of development

The provisions of this part require new development to be sited so as to maintain the amenity of the public domain and adjoining residential properties in terms of visual impacts, overshadowing, privacy and views.

The statement of environmental effects submitted with the development application states the following with regard to the provisions of this part of the chapter:

The school takes up an entire street block therefore there are no other buildings immediately adjoining the site.

As there are no neighbouring buildings, there are no common setbacks for the proposed new building to follow. The setbacks provided are considered acceptable from a heritage and design perspective.

Due to the development's location, no adverse impacts such as overshadowing or privacy have been identified in relation to surrounding properties.

The development has been designed to minimise loss of neighbouring views or vistas. The proposed landscaping will also be designed to ensure no vegetation will block or interfere with significant view corridors.

Council's Urban Design Officer has provided the following comments in relation to the siting of the proposed main building:

The proposed building is a carefully designed building which placed on the north-eastern wedge of the school site, will avoid impacting on the amenity of adjacent private properties.

The placement of the main building means that it will block views of the entry to Sydney Harbour framed by the North and South Head from parts of the adjacent park. It will also change the character of that view in that it will be framed by a building rather than the existing Hills Figs.

An inspection of Bellevue Park revealed that the proposal would not have any significant adverse impact upon views of Sydney Harbour. It would only result in the loss of landscape character due to the loss of the 4 fig trees. However, this is not relevant matter for consideration with regard to the provisions of this part of the chapter (refer to section 13.4 Chapter E3: Tree Management for the consideration of impacts upon significant trees).

The proposal is considered to be satisfactory with regard to part F2.3 of the DCP.

13.8.3 Part 2.4 Heritage conservation

The provisions of this part require new development to be sympathetic to the heritage significance of heritage items and heritage conservation areas. The following specific provisions are most relevant to the proposal:

- O1 To protect buildings, fences, works, relics, or places of heritage significance which form part of, or which are in the vicinity of an educational establishment.*
- O2 To ensure that new development is sympathetic to the heritage significance of heritage items and, where applicable, is sensitive to the streetscape qualities of heritage conservation areas.*
- C1 The location and design of development does not detract from a heritage item.*
- C4 Development responds sympathetically to the heritage significance of items and heritage conservation areas in terms of architectural style and design, colours, materials, proportions and scale.*

The statement of environmental effects submitted with the development application states the following with regard to the provisions of this part of the chapter:

The proposed development will enhance the design of the existing school building and will ensure the school will continue to be used into the future.

The current main building is obscured by other school buildings, trees and the hill of the adjacent park. The new building will not materially reduce the current views to and from the heritage item in the south, west and east. Some views will be removed from the north, however these views are currently obscured by demountable classrooms.

No heritage fences have been identified.

Appropriate design strategies such as the use of suitable materials and setbacks have been utilised. The new school building will not detract from the significance of any of the heritage items and will not detract from the heritage significance of the heritage Norfolk island pine trees.

Council's Heritage Officer has provided the following comments in relation to the proposal:

Heritage Framework

- *The subject site contains two Norfolk Island Pines listed as heritage items in Woollahra Local Environment Plan 2014.*
- *Block A has been identified in the heritage report submitted with the DA as a building that fulfills the criteria for local heritage listing.*
- *Block A is not a heritage item in Woollahra Local Environment Plan 2014.*
- *The subject site is listed on the Department of Education and Communities Section 170 Register.*
- *The subject site has been identified in the heritage report as a site with archeological potential.*

Significance of Subject Property

The heritage report states:

The Bellevue Hill Public School is an item with local historical, aesthetic and representative significance. It has historic significance as a long term local school in the Bellevue Hill area and is an important local community hub. It is a substantially intact representation of the exterior of an Inter-war Free Classical style and the design of local schools in the early twentieth century.

The Department of Education and Communities Section 170 Register identifies the school as a site of historical and social significance that should be listed on a Local Environmental Plan.

Assessment of Heritage impact

Woollahra LEP 2014 Part 5.10 Clauses 1(a), 1(b) & 4

- *Clause 1(a) The development is not in accordance with Articles 8 or 22 of The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance, 2013 (The Burra Charter), for this reason the development is not considered to conserve the heritage of Woollahra.*
- *Clause 1(b) The impact upon the heritage significance, setting and views of a building that is considered to fulfil the criteria for listing as a heritage item in Schedule 5 of the Woollahra LEP, will be adverse.*

Built Heritage

- *The Block A building is an aesthetically significant element in the Birriga Road and Victoria Road streetscapes. The proposed four storey classroom building would obstruct views from the public domain to the Inter-war Free Classical 'Block A' building from Birriga Road and the corner of Birriga Road and Victoria Road as illustrated by the View Assessment by Group GSA, see image 41 below.*



- *Article 22 of The Burra Charter, the standard of practice for heritage conservation in Australia (utilised by Heritage Conservation Practitioners and the Heritage Council of NSW), states that 'new works such as additions or other changes to the place may be acceptable where it respects and does not distort or obscure the cultural significance of the place, or detract from its interpretation and appreciation.*
- *Article 8 of The Burra Charter, states that Conservation of a place 'requires the retention of an appropriate setting. This includes visual and sensory setting'.*
- *The bulk and scale of the proposed classroom building is greater than the bulk and scale of the existing significant Block A building. The new building form is sited forward of the building alignment of Block A, obstructing views to the architectural form of the building. These two factors result in a building form that appears to dominate the significant Block A building, particularly when viewed from the corner of Birriga Road and Victoria Road. The dominant form of the new building does not provide an appropriate visual setting or opportunities for appreciation of the architectural form of the Block A building. The bulk, scale and setback of the proposed classroom building would adversely affect the aesthetic significance and setting of the Block A building.*
- *The scale of the proposed building may be acceptable if the form of the new building was further setback from Birriga Road, providing improved visual separation between the new and old building forms.*
- *Details of the proposed portico and entrance stair to Block A have not been provided. The form, character and materiality of the proposed portico should complement the*

Inter-war Free Classical architectural style of the existing building. Corrugated profile roof sheeting should be used for any roof structure to the portico.

- *The existing COLA structure is visually and physically separate from the significant Block A structure. The proposed COLA addition would be recessive in scale and would not cause any major obstruction to views of Block A from the public domain.*

Landscape

- *The existing Fig trees are part of the historic landscape setting for the Block A. building. These trees should be retained and conserved to maintain the historic landscape setting for the school building. Should it be determined that removal of the Hills Weeping Fig tree and other significant trees is acceptable, new mature trees of a similar species should be planted in the general vicinity, to ensure that the historic landscape setting for the Inter-war Free Classical 'Block A' building is retained.*

Archaeology

- *The Historic Heritage Assessment and Statement of Heritage Impact by EMGA MM states that the remains of a Headmaster's cottage have been found at the subject site. No documentation illustrating where these remains are located has been provided. No assessment of the archeological potential of the affected area has been provided. Given that the subject site is known to contain archeological remains, and is likely to have archeological potential, an Archeological Assessment prepared by a suitably qualified an experienced Archaeologist should be undertaken.*

Recommendation

1. *Revise the form/increase the setback of the proposed classroom building from the Birriga Road boundary, to prevent obstruction of views to the significant Block A. building and reduce dominance of the new building form when viewed from Birriga and Victoria Road.*
2. *Retain the existing Hills Weeping Fig trees and the other significant Port Jackson Fig tree/or provide replacement trees of a similar species in the general vicinity, to ensure that the historic landscape setting for the Inter-war Free Classical 'Block A' building is retained.*
3. *Provide details of the proposed portico and entrance stair to Block A, demonstrating that the form, character and materiality of the proposed portico will complement the Inter-war Free Classical architectural style of the existing building. Corrugated profile roof sheeting should be used for any roof structure to the portico.*
4. *Provide an Archeological Assessment prepared by a suitably qualified an experienced Archaeologist (in accordance with any advice from the Office of Environment and Heritage, Heritage Division/ NSW Heritage Council).*

The submission of the above-mentioned amendments /additional information was formally declined on 10 September 2015.

The proposal is considered to be unsatisfactory with regard to part F2.4 of the DCP.

13.8.4 Part 2.5 Open Spaces

The provisions of this part require the provision of adequate open space for the active and passive needs of students. The following specific provisions are most relevant to the proposal:

- O2 To ensure that educational establishments provide adequate open spaces to cater for the active and passive needs of students.*
- C3 New educational establishments and major development of existing establishments provide open spaces and maximise the use of existing open spaces, having regard to an overall plan for the siting, amenity impacts, usability and accessibility of such spaces.*

The statement of environmental effects submitted with the development application states the following with regard to the provisions of this part of the chapter:

The development has been designed in a way that minimises the building footprint and therefore retains a large amount of open space within the school grounds.

The proposal provides the best layout in terms of retaining open space and reducing any possible adverse impacts such as overshadowing.

Sufficient playgrounds have been provided on-site, however the school is surrounded and directly adjacent to substantial open space.

The NSW Department of Education has provided a statement that the proposal generally complies with the requirements of the Department of Education and Training's *Educational Facilities Standards and Guidelines* (EFSG), previously known as the *School Facilities Standards* including the provision of adequate indoor and outdoor spaces and facilities to accommodate the proposed increase to the school's population.

Council's Urban Design Officer has provided the following comments in relation to the provision of the open space siting of the development:

- *The proposed main building will completely overshadow the play area to the south meaning that will be a cold unattractive space, particularly in winter.*

Whilst the proposed main building will overshadow the adjacent outdoor passive open space area (essentially an amphitheatre), the school does benefit from access to Bellevue Park. In this regard the Plan of Management for Bellevue Park includes the role of *providing Bellevue Hill Public School with an extended playground space* and Council's Team Leader Open Space and Recreational Planning has advised that the *park and playground are used by Bellevue Hill Public School during school hours, although there is no formal agreement in place.*

It is considered that the fact that the school has access to Bellevue Park negates the issue of overshadowing of the proposed outdoor passive open space area adjacent to the main building.

The proposal is considered to be satisfactory with regard to part F2.5 of the DCP.

13.8.5 Part 2.6 Traffic, parking and access

The provisions of this part require the provision of adequate off-street parking, servicing and student pick-up/drop-off in order to minimise adverse impacts upon the surrounding community.

The following specific provisions are most relevant to the proposal:

- O3 *To minimise the impact on the surrounding community due to the arrival and departure of students.*
- C6 *For a new educational establishment or major development of an existing establishment-an internal driveway for vehicles is provided for picking-up and dropping-off students.*
- O4 *To minimise demand for on-street parking.*
- C7 *Development complies with the parking requirements in Part E of this DCP, Chapter E1 Parking and Access.*

As discussed above under section **13.2 Chapter E1: Parking and Access**, the proposal is considered to be unsatisfactory in terms of the provision of off-street car parking.

With regard to student pick-up/drop-off, whilst it is proposed to continue the existing drop-off and pick-up of children on the kerbside of the adjoining side access roadway to the west of the school with waiting vehicles queueing down Birriga Road, several initiatives are proposed in an attempt to reduce vehicle queueing including the claimed provision of 4 additional spaces at the head of the drop-off and pick-up zone via an indentation into the kerb, a 5 minute parking/waiting restriction and the preparation and implementation of a green travel plan. It is also requested that Council consider restricting the currently unrestricted 23 on-street parking along the western side of the access roadway, widening the exit onto Birriga Road from the access road to 2 lanes and allowing school traffic to use the buses only lane at the junction of the access road with Victoria Road.

The applicant has provided the following in response to Council's and objectors' concerns relating to the potential exacerbation of the existing unsatisfactory kerbside pick-up/drop-off of school children:

Potential changes to the school start and finish times have been considered but are not supported by the school for a variety of reasons. Therefore the school drop off and pick up parking times will not change. The peak times are currently an approximate 15-20 minute period before and after the school start and finish times which are 9.15 am and 3.15 pm respectively.

In the mornings, the peak school traffic queue length was observed as 12 vehicles. The length of the traffic queue lane is 17 vehicles. There are no overflow traffic queue issues for the school currently in the mornings. With the future school expansion, an 80% increase in the school student numbers would theoretically increase the peak school traffic queue length to 22 vehicles. However with the fifteen percent traffic reduction from the Green Travel Plan (GTP) this would reduce to 18 vehicles. This is one vehicle more than the queue lane length currently which would be addressed by the proposed (via a separation development application) kerb setback and addition of 2 vehicles additional queuing capacity at the head of the queue near the turnaround area. No changes will therefore be required to the school traffic queue lane in the morning peak.

In the afternoons, the peak school traffic queue length was observed at 17 vehicles in a stationary queue which built up over a 20-30 minute period before the school finish time at 3.15 pm and a further overflow peak queue of 15 vehicles at the peak time (approximately 3.20 to 3.30 pm) which gives a peak traffic queue length of 32 vehicles currently. With the

introduction of the maximum 5 minute parking time in the afternoons which could be effectively enforced by school staff the 'stationary queue' problem would be substantially reduced such that the overall peak traffic queue as a moving queue would be reduced to approximately 20 vehicles. With the future school expansion, an 80% increase in the school student numbers would theoretically increase this peak traffic queue length to 36 vehicles. However with the fifteen percent traffic reduction from the Green Travel Plan (GTP) this would then reduce to 31 vehicles. This is effectively the same as the afternoon school vehicle traffic queue length currently. It was observed that this traffic queue does temporarily block the cycle lane in the uphill direction on Birriga Road, but for the limited duration in which this occurred (3.20 to 3.30 pm) there were no observed cyclists travelling uphill on Birriga Road. The additional forecast school peak parking demand would be addressed by the proposed changes to the school traffic queue lane in the afternoon peak period.

In the future, to address the additional traffic safety concerns at this location which have been expressed by the NSW Police, the current 'narrowed' configuration of Birriga Road at this location (which was implemented approximately 10-15 years ago by the Council) could be restored to its original configuration (still including the cycle lane in both directions) as follows.

The original configuration of Birriga Road between the School Access Road and Banksia Street was 6 lanes wide which provided two traffic lanes and a parallel parking lane in each direction. Approximately 10-15 years ago this was changed to one traffic lane plus a cycle lane in each direction with parallel parking on the western side and a combination of angle parking and parallel parking on the eastern side. For the optimum traffic requirements in this area, the configuration should now be further modified to restore two traffic lanes in the uphill direction. This could retain the cycle lane in each direction, but would require the combination of angle parking and parallel parking on the eastern side to revert to parallel parking only. There would be some loss of the locality parking supply for local residents but it would effectively only be a return to the situation as it was 10-15 years ago.

Council's Traffic Engineer has provided the following comments in relation to the proposed kerbside pick-up/drop-off of schoolchildren:

The Traffic and Transport Assessment Sec 3.3 revealed that during peak hours, the actual queue exceeds the maximum 17 car length queuing area and occupies the cycle lane (impeding the passage of westbound cyclists) on Birriga Road. The queue extends to near the intersection of Birriga Road and Banksia Road, 15 car lengths beyond the current limit of queuing area. Council officers from the Planning and Traffic sections also observed significant queuing during the school afternoon peak on a typical weekday. The queue occupied the entire westbound travel lane of Birriga Road up to Banksia Road. The queue occupied the cycle lane, 'Bus Zone' and 'No Stopping' zone and also obstructed the access to residential driveways and on-street parking spaces. Queuing associated with the existing situation forces westbound vehicles including buses to cross the unbroken centreline along a substantial length of Birriga Road, into the path of oncoming vehicles.

An 82% increase in the student numbers is expected to increase the peak traffic queue length from the observed 32 vehicles to 59 vehicles. Council's Traffic Section does not support the proposed "5 Minute" parking restrictions as there is no evidence suggesting that the 5 minute restrictions can reduce the queuing period more effectively than the current case ("No Parking" restrictions only permit drivers to park for up to 2 minutes under the Road Rules 2014).

Should the proposed green travel plan be implemented and successfully meet a target of a 15% reduction in car usage, a traffic queue length of 51 vehicles can still be expected post-development. It is evident that increasing the queue length by an additional 19 vehicles will result in unacceptable adverse impact on the local road network that would further comprise road safety and cause significant congestions during peak school hours. Council's Traffic Section raises serious concerns for general traffic safety of students and carers attending the school, cyclists and other road users in the vicinity of the site.

It should also be noted that Council has received general complaints from residents of Bellevue Park Road with regard to the School's existing parking/set-down and pick-up situation which will only worsen with an intensification of the use of this site.

The existing daily illegal queuing on Birriga Road also obstructs the westbound on-road bicycle shoulder lane, creating a potentially dangerous situation that requires cyclists to leave the dedicated lane and join the general westbound traffic lane. When this occurs, drivers are already significantly challenged in the decision making ability by the need to identify safe gaps in oncoming traffic in order to pass the illegally queuing vehicles attending the School. Failure of the School to manage the pick up/drop off situation on-site also results in an unsafe environment for cyclists that will clearly be exacerbated should the development proceed in its current form.

These points are supported by NSW Police Leading Senior Constable Corinne Dawes (Rose Bay Police Station Traffic Supervisor), who has written to Council stating:

'Currently the parents picking up in the afternoon are banked up from their pickup and drop off zone a couple of hundred metres down Birriga Rd to Banksia Rd from about 3:00pm to 3:30pm obstructing the flow of traffic westbound on Birriga Rd. Morning drop off is not as significant but still flows onto Birriga Rd at times obstructing the traffic flow. There is also traffic issues in Bellevue Park Rd which is a dead end at the top of the school with parents dropping off and collecting students from there and again obstructing traffic flow.

With students not travelling to school by bus I would say that this would cause at least a further 150 vehicles dropping off and picking up students which will cause major traffic congestion in this area in the morning and the afternoons. Victoria Rd & Birriga Rd are both thoroughfares for morning and afternoon traffic and should not be obstructed.

If this increase of students is allowed then a pick up and drop off zone needs to be put onto the premises to cater for the increase of students.'

It was confirmed on-site that only 2 additional on-street car parking spaces (instead of the 4 spaces indicated in the traffic report) are proposed adjacent to the main school gate (due to street tree impacts). These two additional parking spaces will not effectively address the queuing problem when the existing queue already exceeds the queuing area by 15 car length and additional 19 cars can be expected. In addition, the proposed indented parking bays will further disrupt the school traffic and generate congestion. Consideration should be given to the provision of an internal driveway and turn around area for the pick-up and drop-off of students to this School, in accordance with Woollahra DCP 2015 Chapter F2 Educational Establishments Clause F2.6.

Conclusion

Based on the information provided, an increase of pick up queue length by 19 cars can be expected at afternoon school peak. The existing unsafe traffic situation at pick up and drop off times, which occurs due to the regular extensive queuing of parents/carers along Birriga Road, is expected to exacerbate. Council's Traffic Section raises serious concerns for general traffic safety of students and carers attending the school, cyclists and other road users in the vicinity of the site.

The proposal is considered to be unsatisfactory with regard to part F2.6 of the DCP.

13.8.6 Part F2.7: Planting, Fencing and Hard Surfaces

The relevant provisions of this part require the protection of existing significant vegetation and to provide a high standard of landscape design.

Whilst Council's Team Leader-Tree Department has raised no objection to the proposed landscape design, objection is raised in relation to the proposed excessive pruning (approximately 50%) and consequential reduced lifespan and limb failure of a significant Port Jackson Fig tree located in Bellevue Park and the loss of all 3 Hills Weeping Fig trees from the subject site to facilitate the main new building and associated significant adverse impacts upon the landscaped character/amenity of the locality as discussed above under the section 13.4 *Chapter E3: Tree Management*.

In this regard, the proposal is considered to be unsatisfactory with regard to the following specific provisions of this part of the DCP:

- 01 *To conserve existing landscaping which contributes to the streetscape.*
- C1 *Significant trees on the site are retained.*
- C2 *Development does not damage significant trees located on land adjoining the site.*

13.8.7 Part F2.8: Community Use

The provisions of this part encourage the use of school facilities by the wider community whilst minimising impacts upon the amenity of adjacent properties.

The use of the buildings and/or the school grounds for after school hour classes and weekend markets are also proposed. However, specific details of the proposed weekend markets have not been provided.

Council's Manager-Community Development has provided the following comments in relation to this aspect of the proposal:

In 2011 Council commissioned a Community Facilities Study which included Council owned community facilities and venues for hire, non- government community facilities and school halls. The Study found that the provision of community facilities is uneven across the LGA with fewer community facilities provided in the eastern portion of the LGA, including the Bellevue Hill and Rose Bay District. The Bellevue Hill and Rose Bay district was considered to have the highest requirement for community facility floor space. Accordingly, Council supports the use of the school premises out of school hours for appropriate community uses.

In the absence of specific details of the proposed weekend markets, an assessment of potential local environmental impacts is not possible.

14. SECTION 94A CONTRIBUTIONS PLAN 2011

In accordance with Schedule 1, a 1% levy applies (\$128,606) with the monies being used for a variety of works as outlined in Schedule 2 of the Section 94A Contributions Plan 2011.

15. APPLICABLE REGULATIONS

14.1 Demolition of Structures

Clause 92 of the Environmental Planning and Assessment Regulation 2000 requires Council to consider Australian Standard AS 2601-2004: The demolition of structures. This requirement could be addressed by condition.

14.2 Fire Safety

Clause 94 of the Environmental Planning and Assessment Regulation 2000 requires an assessment of the fire safety adequacy of the existing buildings to be retained in terms of the requirements of the Building Code of Australia (BCA) and whether or not fire safety upgrade works are required.

Council's Fire Safety Officer has provided fire safety upgrade requirements which would form conditions of any recommended development consent.

16. THE LIKELY IMPACTS OF THE PROPOSAL

All likely impacts have been addressed elsewhere in the report, or are considered to be satisfactory and not warrant further consideration.

17. THE SUITABILITY OF THE SITE

The site is unsuitable for the proposed development for the following reasons:

- The existing kerbside drop-off/pickup arrangement adversely impacts upon public safety. The proposal would exacerbate local traffic impacts/public safety due to anticipated additional queueing predominately during afternoon pick-up times;
- Insufficient off-street car parking provision and associated increased demand for on-street car parking within the locality;
- Excessive pruning (approximately 50%) and consequential reduced lifespan and limb failure of a significant Port Jackson Fig tree located in Bellevue Park and the loss of all 3 Hills Weeping Fig trees from the subject site, associated loss of landscaped character/amenity to Bellevue Park and the local streetscape and the associated loss of foraging habitat for the vulnerable listed Grey-Headed Flying Fox; and
- Heritage related issues.

18. THE PUBLIC INTEREST

Whilst the proposal will facilitate the provision of 450 additional public primary school places at an existing school that has the potential to expand within a sub-region that has limited public schools with expansion potential and a growing demand for public primary school places, it is considered that this potential public benefit is negated by the following adverse environmental impacts:

- The existing kerbside drop-off/pickup arrangement adversely impacts upon public safety. The proposal would exacerbate local traffic impacts/public safety due to anticipated additional queueing predominately during afternoon pick-up times;
- Insufficient off-street car parking provision and associated increased demand for on-street car parking within the locality;
- Excessive pruning (approximately 50%) and consequential reduced lifespan and limb failure of a significant Port Jackson Fig tree located in Bellevue Park and the loss of all 3 Hills Weeping Fig trees from the subject site, associated loss of landscaped character/amenity to Bellevue Park and the local streetscape and the associated loss of foraging habitat for the vulnerable listed Grey-Headed Flying Fox; and
- Heritage related issues.

Accordingly, the subject development application is considered not to be in the public interest.

11 CONCLUSION

The proposal is considered to be unacceptable against the relevant considerations under Section 79C for the following reasons outlined in the report.

12 DISCLOSURE STATEMENTS

Under Section 147 of the Environmental Planning and Assessment Act, 1979 there have been no disclosure statements regarding political donations or gifts made to any Councillor or gifts made to any council employee submitted with this development application by either the applicant or any person who made a submission.

13 RECOMMENDATION PURSUANT TO SECTION 80(1) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

THAT the Joint Regional Planning Panel recommend to the Minister for the NSW Department of Education the refusal of development consent to DA 315/2015 for the expansion and upgrade works to Bellevue Hill Public School to facilitate an increase in student numbers from 550 to 1000, an increase in staff numbers from 37 to 72, to provide upgraded /expanded facilities and the temporary relocation of 3 demountable buildings to the adjoining Bellevue Park on land at 163A Victoria Rd Bellevue Hill (Bellevue Hill Public School) and 19A Bellevue Park Rd, Bellevue Hill (Bellevue Park), for the following reasons:

1. Due to the proposed 450 additional primary school aged students, an increase in the kerb side pick-up queue length by 19 cars is expected during afternoon school peak periods. The existing unsafe traffic situation due to the regular extensive queuing of parents/carers along Birriga Road is anticipated to be exacerbated. Council's Traffic Section and the Rose Bay Police Station

Traffic Supervisor raise serious concerns for general traffic safety of students and carers attending the school, cyclists and other road users in the vicinity of the site.

2. The proposal results in a shortfall in off-street car parking provision of approximately 26 spaces when taking into consideration the proposed green travel plan. Council's Traffic Section objects to any increased demand for on-street parking as existing supply is already highly utilised. Any increase in demand is likely to result in increased prevalence of illegal parking thereby reducing general traffic safety and flows in the vicinity of the school.
3. Excessive pruning (approximately 50%) and consequential reduced lifespan and limb failure of a significant Port Jackson Fig tree located in Bellevue Park and the loss of all 3 Hills Weeping Fig trees from the subject site, associated loss of landscaped character/amenity to Bellevue Park and the local streetscape and the associated loss of foraging habitat for the vulnerable listed Grey-Headed Flying Fox.
4. The proposed main building would obstruct views to the heritage significant "Block A" building from Birriga and Victoria Roads, result in the loss of the historic landscape setting for the same building due to the loss of the 4 Fig trees and the form, character and materiality of the proposed portico and entrance stair to "Block A" may not complement the Inter-war Free Classical architectural style of the existing building.

Further, the Historic Heritage Assessment and Statement of Heritage Impact submitted with the DA states that the remains of a Headmaster's cottage have been found at the subject site. Documentation illustrating where these remains are located and an assessment of the archeological potential of the affected area have not been provided despite a written request from Council. Given that the subject site is known to contain archeological remains and is likely to have archeological potential, an Archeological Assessment prepared by a suitably qualified an experienced Archaeologist should be undertaken.

5. The stormwater disposal concept plans prepared by Birzulis Assoc Consulting Engineers Dwg No. HSW-00 to HSW-03 Issue F, dated August 2015 are considered to be unsatisfactory for the following reasons:
 - The stormwater management plan with an OSD system needs to be provided for the entire site and not only for the area of new works.
 - All surface and invert levels of all pits and pipes including the final point of discharge need to be documented.
 - The proposed extension on south-east of the proposed site is said to be draining to an existing system. The existing system and a legal final point of discharge need to be documented.
 - The OSD system design calculations including the bypass area need to be documented.
 - An emergency overflow weir needs to be provided for the OSD system and a path of the overflow discharge documented.
 - The size of the Orifice plate diameter needs to be documented (it appears to be too wide). The OSD storage design should be revised to achieve hydraulic workability and to achieve the purpose of an OSD system provision.
6. Whilst the proposal will facilitate the provision of 450 additional public primary school places at an existing school that has the potential to expand within a sub-region that has limited public schools with expansion potential and a growing demand for public primary school places, it is

considered that this potential public benefit is negated by the following adverse environmental impacts:

- The existing kerbside drop-off/pickup arrangement adversely impacts upon public safety. The proposal would exacerbate local traffic impacts/public safety due to anticipated additional queueing predominately during afternoon pick-up times;
- Insufficient off-street car parking provision and associated increased demand for on-street car parking within the locality;
- Excessive pruning (approximately 50%) and consequential reduced lifespan and limb failure of a significant Port Jackson Fig tree located in Bellevue Park and the loss of all 3 Hills Weeping Fig trees from the subject site, associated loss of landscaped character/amenity to Bellevue Park and the local streetscape and the associated loss of foraging habitat for the vulnerable listed Grey-Headed Flying Fox; and
- Heritage related issues.

Accordingly, the development application is considered not to be in the public interest.

7. In the absence of specific details of the proposed weekend markets, an assessment of potential local environmental impacts is not possible.
8. An assessment of the impact upon 3 Hills Weeping Fig street trees of the proposed provision of 4 additional spaces at the head of the drop-off and pick-up zone via an indentation into the kerb adjacent to the western frontage of the school has not been able to be undertaken by Council's Team Leader-Tree Department as this is only indicated in the traffic report and is not documented on the architectural plans, landscape plans or in the arboricultural impact assessments/root investigation report.